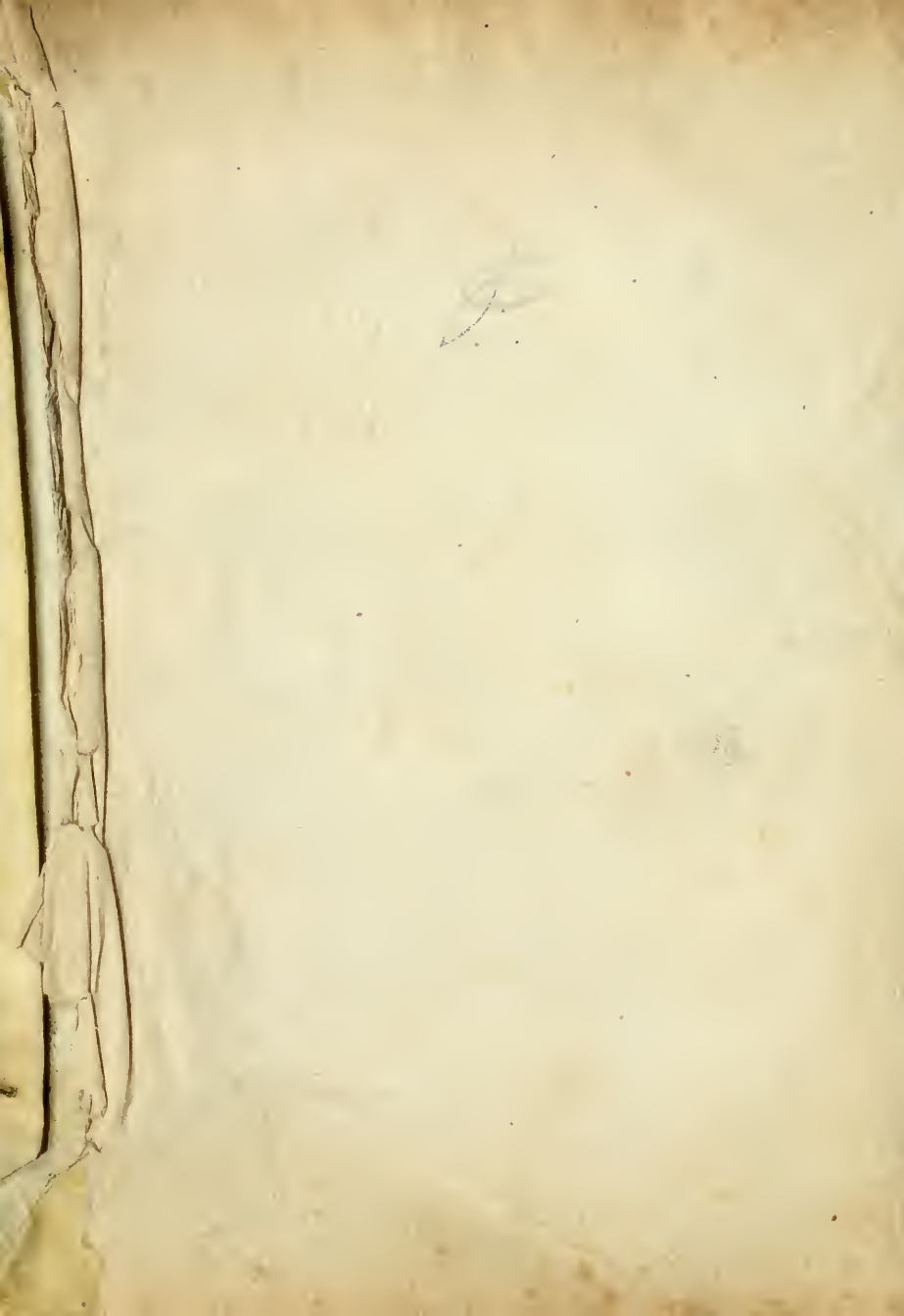




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1850
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t



THE
Attourneys Academy:

OR,

THE MANNER AND
forme of proceeding practically, vpon
any Suite, Plaint, or Action whatsoeuer, in any
Court of Record whatsoeuer, within
this KINGDOME:

ESPECIALLY,

IN THE GREAT COURTS AT
Westminster, to whose motion all other Courts of
Law or Equitie; as well those of the two Pro-
uinciall Counsailes, Those of Guild-Hall
London; as Those of like Cities
and Townes Corporate, And
all other of Record are diu-
nally moued:

*With the Moderne and most vsuall Fees of the
Officers and Ministers of such Courts.*

Publisht by his MAIESTIES speciall priuiledge,
AND
Intended for the publike benefit of all
His Subiects.

Summum hominis bonum, bonus ex hac vita exitus.

THO: POWELL
Londino-Cambrensis.

LONDON,

Printed for *Beniamin Fisher*: and are to be sold at his
Shop in *Pater-noster Row*, at the Signe of the
Talbot: 1623.

THE UNIVERSITY OF CHICAGO

PH.D. THESIS

BY

1955



TO
THE HO-
NORABLE, SIR
I A M E S L E Y, *Knight:*
A N D
Sir H E N R Y H O B A R T *Knight*
and Baronet; The two Lords chiefe
Iustices of the two severall
Benches.



*Y good Lords,
I humbly pre-
sent vnto you
this Tractate,
whose worth
is like the Vo-
lume; Small.*

*It is my first Proosse-piece vpon
(a) the*

THE EPISTLE

the Subiect ; with your aspect it may receiue more perfection, and the Common-wealth much profit : whereas otherwise , if you suffer it to be quarrelled out of its vsfulnessse, for want of fulnesse : It shall not onely discourage and alter my settled purpose of Reforming and enlarging the same to an indisputable completenesse , but shall farther giue me cause to carry Report into the world, of my great infortunitie, And to set vp a crosse in the high-way of endeuour for common good , whereby to admonish others to forbear that path.

But I know , and the world bath the testimonie of it , that no respect of your subordinate Ministers

DEDICATORIE.

nisters or Officers, or other Argument or Oratory whatsoever, can make you vary your accustomed carriage and countenance to communitie of welfare, and publique weale.

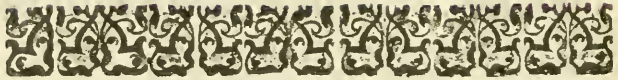
I conclude with this onely saying of the Poet, in case any shall expresse himselfe so, *Pessimè merens de republica*, as to sollicite the interruption hereof:

Jupiter hac illi quamvis te albata rogarit.

Your humble servant,

THOMAS POWELL.

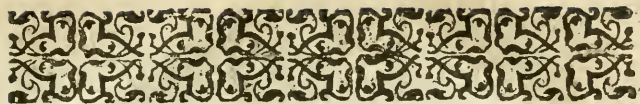
Place this at the beginning of the *Common-pleas*, fol. 93. *erronicè* 39.



*Quicquid erit, superanda omnis
Fortuna ferendo est.*



THE



TO
THE RIGHT
REVEREND IN GOD,
RIGHT HONOURABLE IN
his KING, Right seruiceable in his Coun-
trey, and Right able in himselfe; JOHN,
Lord Bishop of LINCOLNE, and
Lord Keeper of the great Seale.
of ENGLAND.

I See the Storme a'comming; whether shall I
seeke couert in the Mountaine, or the Valley?
Or else betake me to the silent Streame,
and let the Tempest burst, and spit his spleane
Vpon the earth? So I be safe and sauen,
while I shall ride at Anchor in the Hauen.
Alas, the fatall Sisterhood (in sport)
will there betray thee: For within the Port,
Shipwracke hath disappointed and disgrac't
the Prouerb of *Long look't for comes at last.*
Then will I launch into the very Maine,
to see if *Neptunes* deitie will deyne

The Epistle Dedicatorie.

To fence and fling his Trident on my head,
by power whereof all Stormes are scattered :
Which, if hee doe deny, my comfort is,
my Shipwracke shall haue noble Witnessse,
I sinke not in a Ditch, nor by the Shore,
But dye, and lye at *Neptunes* Palace dore.
'Tis thou alone that bear'st the triple Mace,
canst, in the very speede of all their chase,
Restraine their pursuite ; Doe but keepe in awe
these nimble, neate *Nereides* of the Lawe ;
Charge *Aolus* (as he does honour thee)
he doe not dis-imbulke his cheekes at me.
I haue done nothing to offend thy Traine,
rauish't *Amemone* (as the Poets faine)
Nor sought to rob the Sea-gods bed of Corall,
I meane Lawes mysteries: (For that's the Moral.)
If this be so, vouchsafe me thy Protection,
that I may bring this Worke vnto perfection.
Then will I sing thy Fortune and thy Fame,
and proue, that *Williams* from the *Troians* came:
Shewe, where his Auncestors long since did build
a Seate, which hitherto their Name hath fill'd.
Now may that Name and Honour ne're expire,
But in a melting Firmament of Fire.

Lutum

In manu Victoris:

THOMAS POWELL.

TO



TO
TRUE NOBILITIE
AND TRYDE LEARNING,
BEHOLDEN

To no Mountaine for Eminence,
nor Supportment for his Height,
FRANCIS, Lord *Verulam*, and
Viscount *St. Albanes*.

O Giue me leaue to pull the Curtaine by,
That clouds thy Worth in such obscuritie,
Good *Seneca*, stay but a while thy bleeding,
T'accept what I receiued at thy reading:
Heere I present it in a solemne straine,
And thus I pluckt the Curtaine backe againe.

The same

THOMAS POWELL.

A

In



T. N.

In Commendations of this
Worke.

(you more ?
TIs good, 'Tis common good, what would
It wil be more good, whē there is more store.

— *Pueri, Sacer locus est, extra meite.*



TO THE READER.

*Sta, Lege, Plora,
Pro me (precor) ora.*



R I E N D L Y Reader, Thy Religion and Zeale to common good, may somewhat stead, but not secure me : For, if thou beest but a temperate man in this age, wherein the Planets themselues are so extremely distempercd, the Ayre is sicke of their disease, and the lower bodies doe all complaine, and are shaken with the same feauer ; Thy calme and plyable constitution shall make thee subiect to their indisposition :

Unlessse thou be superlatiue. & superstitious in the faith and profesion of Publique Weale, thou shalt be

The Epistle

200 too innerued to meete the priuie malice of those who are only studious of priuate profit; Or to make vp me and my good meaning to the generall aduantage.

Thou maist easily conceiue, that my aime is not leuelled at any Lucratiue Land-marke, seeing no endeuour can afford a more mercilesse and immercenarie returne then this: To which, the pitie of my poore Countrie-men did impresse and send mee forth in the first ranke, to be exposed vnto the most danger: Which, with all other difficulties in the Attempt, I haue receiued with the one hand, and cast away with the other: I haue euer held it more honour & happines to hurle my selfe headlong into the flaming Temple, then to ensafe me in the midst of the mutinous Schimeonites.

1. Indeed, I must confesse, That my selfe was the most unworthy and unable of many to vndergoe this Taske.

2. That I haue waded thus farre, without calling of those of the mysterie to my guidance:

3. It may be, that I haue stept besides the common Causeway, and trespassed pedibus ambulando vpon some mens Inclosure:

4. Perhaps I haue sometimes erred, & mis-set the Needle of my Compasse:

5. And admit I haue not trauelled so farre as the Seas offered Passage and Passe-port vnto me.

I All this is easily answered: For you must vnderstand, That the necessitie of the Voyage did imbarke

to the Reader.

barke me, when in all this age past before vs, no one (how able soeuer) would vndergoe the discoverie: None would; or will preferre the Prayer of posteritie, before the purchase of the present.

2. I knew not whom to trust or call to Guide, lest I should betray the whole Voyage.

3. Beyond the Pole of Propertie, I care not in what Streame my Keele leaues her dinted impression.

4. Beyond the Line, the old Compasse is to be laid by, and the new one is to be vsed.

5. I haue trauailed as farre as the Victuall and Tackle, which I was able to provide with my ready stocke, would beare mee. And it shall be held amongst all well-affected English Seafarers, worthy the hazard, charge, and time bestowed upon it: In regard that I haue in this leading discovery set forth where the way lies for farther Nauigation, to driue a Trade euen to the vtmost confines of those parts, and to make perfect & perpetuall commerce between vs and them.

The lik^e are my endeouours for the settling and establishing of a certaine course of compliance between the Officers and Ministers of our Lawes and their Clients, which would distinguish and set apart the vnlearned and vnconscionable crue, from those whose endowments of acquisition, and indeerements of conscie. ce, & innated composition speakes them farre more worthy.

For my faults of deficiencie, I am not ashamed to invite the supply of those who haue the aduantage of breeding.

The Epistle

Proceeding in their particular Offices on their sides, if they will afford it.

For my faults of Insufficiency, I doe not blush at them: Barnardus non videt omnia: He that knowes most in the practice of the Lawes, knowes most how impossible it is with the single qualitic of any one man living, to reduce the infinite differing parcels of this Account, into a perfect and certaine Summe at the first collation or calculation thereof.

For my Printers faults of all kindes, I giue him kindly to your mercy.

Would you haue me now to leaue all vndone, because some part cannot be done to perfection at the first?

Will you blame me for those few imperfect quodlibets, without whose company and fellowship, so many usefull quodlibets with which the ensuing Treatate is farced, had neuer beene able to hold out so tedious a Iourney.

Surely, whatsoeuer you be that shall doe it, I must tell you, that the Million Multitude will repute and report you for a second Alexander, not the Conquerer, but the Copper-Smith; not famous for trimmph, but for Trade: Not Alexander who in his greatnesse would be worshipped as a god himselfe, but Alexander who in his leather Apron would haue the very Puppits which his hand rough-bewed, drawe an adoration and reuerence amongst the people.

Good

to the Reader.

*Good Alexander, doe not feare thy trading,
Pursue me not, though thou deny thine ayding:
I aske but ayde of Patience and of Time,
To frame and finish this poore worke of mine:
To make, to mend, to perfect and to polish,
what Alexanders wisdome thinks so foolish.*

To the rest, I rest

As ieaious of your loues,
as zealous of your liking,

THO. POWELL.

THE

THE UNIVERSITY OF CHICAGO
DEPARTMENT OF CHEMISTRY
5800 S. UNIVERSITY AVENUE
CHICAGO, ILLINOIS 60637
TEL: 773-936-3700

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THE
 ATTOVRNEYS
 ACADEMY.

The manner of proceeding in the
 CHANCERIE.

THE CHANCERIE.



Otwithstanding the practice
 heere before this time hath
 beene ; That no *Sub pœna*
 should bee sued foorth of
 the Court of *Chancerie* ,
 without a Bill of Com-
 plaint first exhibited. Yet
 laterly, for the ease of al Sui-
 tors and Subiects, it hath beene thought good,
 that every man may haue a *Sub pœna* out of the
 same Court, without any Bill first exhibited.

B

This

This *Sub pœna* is the leading Proceſſe of this Court, by which the party Defendant againſt whom the Complaint is intended, is ſummoned and required to appeare, and make anſwere to the Complainant, vnder a certaine paine, and at a certaine day to come.

The dayes of *Returne* here, are the vſuall *Returns*, as in the ordinarie *Almanack*; Or elſe a *Sub pœna* may be returnable at a certaine day, after any the ſaid vſuall *Returns*, or the great Feaſt Dayes, from whence the *Returns* take their denomination: So that you muſt adde (*Prox.*) in place where cauſe ſhall require.

As if the Feaſt Day be to come: Then it muſt be, *Prox. Futur. in unum menſem*:

But if the Feaſt day be paſt: then it muſt be *die Paſchæ in unum menſem prox. futur.*

And the like to other *Returns*, before or after other Feaſt dayes.

The *Sub pœna* being by the Complainant or ſome other by him appointed, ſerued, and returnable in manner (as aforeſaid;) The Complainant hath libertie to put in his Bill, vntill the day following the fourth day after euery the ſaid *Returns* (if the *Sub pœna* bee returnable vpon the certaine *Returne* day.)

And you muſt account the *Returne* day, and the fourth day after it, for two of the ſaid foure dayes.

And if the Bill bee not fyled on the next day after

after the said fourth day: The Defendants Attourney (having the *Sub pæna* or *Labell* thereof, wherewith the Defendant was serued, Or an Oath that the *Sub pæna* was serued) hee may get fitting Costs in euery such case.

When the Defendant hath so got Costs, he may haue a *Sub pæna* whereby to command the Complainant, presently vpon the sight thereof, to pay the Defendant or the bringer thereof, the said costs (as aforesaid.) And if the Complaynant doe refuse to pay the said costs, accordingly: Then the Defendant may, vpon *affidavit* made, that the *Sub pæna* for costs was serued, haue an Attachment directed to the Sheriffe of the County, to attach the Complainant therefore.

And vpon returne made by the Sheriffe, that the Complainant can not be found, an Attachment with Proclamation may bee sued forth against the Complainant.

And that Proclamation beeing likewise returned by the Sheriffe (as aforesaid:)

Then a Commission of Rebellion may bee sued forth against the Complainant.

But on the contrarie side, if the Complainant doe put in his Bill, And the Defendant appeareth not, the next day after the Costs day:

Then the Complainant (vpon Oath made that the Defendant was serued with a *Sub pæna*) may haue an Attachment, and farther Proces vpon

4. *The Chancerie.*

like Returnes (as in case aforesaid.)

Where note, that the party which maketh Oath that he serued the *Sub pœna* : Or that the *Sub pœna* was serued, must sweare as followeth :

That he deliuered the *Sub pœna* to the Defendant:

Or he shewed the *Sub pœna* to the Defendant, and deliuered to him a note of the day of his appearance :

Or hee left the *Sub pœna* at the Defendants dwelling house, where the Defendant most abideth:

Or hee shewed the *Sub pœna* at the Defendants dwelling house to his Wife, or some of his seruants, and there left the *Labell* of the *Sub pœna*, or a note of the day of his appearance :

Or he must sweare that he heard the Defendant confesse that he was serued with *Sub pœna*.

And if the Defendant doe appeare within the time limited :

Then the Complainants Attourney may giue vnto the Defendants Attourney, on the said day after the Costs day, a Rule, that the Defendant doe make answere to the Complainants Bill, by the same day seuen night then next to come. This Rule and day giuen, must bee entred into the Register.

And if the Defendant doe not answere by the prefixed day so entred :

Or if he doe not otherwise satisfie the Court by sufficient cause, and occasion of the delay:

Then the Complainants Attourney may take forth an Attachment against the Defendant.

The causes whereby the Defendant may satisfie the Court of his said delay in answer, are these for the most part. (viz.)

HE cannot make direct answer, without sight of his Evidences or Writings which are in the Country:

Or hee cannot answer without conference had, first with some person named in the said Bill:

Or with some person whom the matter toucheth:

Or that the Defendant is not able to trauell.

Of every which reasons aforesaid, Oath must be made.

ANd vpon Oath so made:

Or by an especiall motion made for this purpose:

The Defendants Attourney may procure a

Dedimus potestatem, directed to certaine Commissioners in the countrey, to take the Defendants answere there.

And the cause wherevpon this *Dedimus potestatem* is granted, must be entred into the Register.

So likewise in case where the Defendant doth not answere within the limited time, and an Attachment is therefore awarded against him: The Clerke which maketh the same Attachment, must enter it into the Register; shewing the cause wherefore it was granted.

But if no day bee giuen to the Defendant to answere: Then the Defendant hath liberty to answere at any time during the Terme.

And if he doe it not within that time: Then an Attachment may bee sued forth against him of course. And the same, with the cause thereof, must bee entred into the Register: (*viz.*) That the Defendant appeared, and departed without answere.

If the *Sub panna* be returnable so neere vnto the end of the Terme, that there cannot be a day giuen to the Defendant to answere, he must at his perill answere by the same day seuen-night following the day of his apparance, although it bee in the Vacation. For the *Chancerie* is alwayes open.

If the *Sub panna* bee returnable on the last *Returne* day of the Terme it selfe: Then the Defendant is at libertie to appeare the first
returne

returne of the Terme following:

But if it be at a day certaine, although the same bee the last day but one of the Terme, yet the Defendant must appeare, and answere by that day seuen-night, next following the said Appearance.

If the *Subpœna* bee returnable immediately, though it be serued on the last day of the Terme, so it bee serued before the rising of the Court; The Defendant must also appeare and answere, by the same day seuen-night.

And if the Defendant make Oath, that hee cannot answere without Writings, &c. or conference with some other person: Or if hee haue a *Dedimus potestatem*, and Commission to make his Answere: Hee must, at his perill, procure his Answere to be put in, before the day after the first Costs day of the next Terme following; vnlesse it be Trinitie Terme: And then, and in such case, it must be put in the second day: or else the Complainants Attourney may, vpon such default, make an Attachment against the Defendant, and enter the same into the Register, for that hee hath not answered by the day prefixed.

Or in other case, That hee appeared, and departed without Answere: Or otherwise, That he did not returne the *Dedimus potestatem* at the day prefixed, &c. as the case shall require.

And though the custome hath bin heretofore,
That

That by reason that the Defendant may abuse this libertie giuen to him (as aforeſaid) in delaying the Complainant by *Demurrer* in Law: No ſuch *Demurrer* ſhould be allowed; yet is now permitted, That the Defendant may, by his Anſwere returned by *Dedimus poteſtatem*, *Demurre* in Lawe: For that he, not appearing in perſon at the firſt, his Counſaile in his abſence may not *Demurre*, though the Complainants Bill bee inſufficient: Becauſe euery *Demurrer* muſt be deliuered into the Court by the Defendant in proper perſon, and not by his Attourney, except in Caſes where the Defendant is not able to appeare in perſon. In which Caſes it is uſed; That the Defendant may deliuer his *Demurrer* to the Commiſſioners: who, though they be by the expreſſe words of their Cōmiſſion, to receiue the Defendants Anſwere vpon his Oath: yet, if the Defendant deny to anſwere, they are to certifie the ſame, with the reaſons by him alleadged, wherefore he will not anſwere vpon Oath; Leauing the ſame to the conſideration of the Court: And they are to take and returne ſuch Anſwere as the Defendant ſhall deliuer vnto them.

But where the Defendant hath before appeared, and taken Copie of the Complainants Bill, and hauing had conference with his Counſaile thereupon, is by him reſolued that he cannot make a direct Anſwere, by reaſon of ſome
matter

matter in the said Bill laid to his charge, which hee cannot cleere without sight of Euidences, Writings, or conference with some person; There is no reason, that after time so giuen to the Defendant, from the day of his Appearance, vntill the beginning of the next Terme following, he should be admitted to *demurre* to the Complainants Bill:

For if there had beene any cause of *Demurrer*, Hee might haue demurred at the day giuen him to answer; So that the Complainant might haue had time to haue had the opinion of the Court, whether the *Demurrer* were good, or not.

So, if the Defendant, after such time so taken, doe *demurre* in Lawe; The Complainant shall haue an Attachment of course, as though no Answer at all had beene put in: The said Attachment is to bee answered thus, (*viz.*) For that the Defendant hath not answered by the day to him giuen, therefore an Attachment, &c.

Vpon the returne of this Attachment, he may haue the like Proces as aforesaid.

And in case where there be more Defendants, euery Defendant shall be punished alike, for his owne like offence;

Except in case where a *Sub pana* is granted against a man and his Wife: In which case a man shall be punished for his Wiues offence.

For if a man bee serued with a *Sub pana* in London against him and his Wife, (she being in the countrey) yet if hee doe not satisfie the Court, by some of the courses before mentioned, as well for his Wife, as for himselfe (he being here in person) an Attachment shall be granted against him and his Wife, as though hee had neuer appeared, which Attachment shall be entered; For that *A. B.* wife vnto *C. D.* hath not answered according to a day to them prefixed: therefore an Attachment is awarded against *C. D.* and *A. B.* his wife.

If the Complainant dye, his heyre or Executor, who hath the interest of the thing whereof he complaineth, may put in a Bill of *Reuivour* against the Defendant, his heyre or executor, as the case shall require.

Also, It is to bee remembred, that if the Complainant exhibite his Bill against a Man and his Wife, for matter which wholly concerneth the Wife: whereunto they make answer, and after answer made, the man dyeth; The Complainant cannot proceed in that suite against the woman, without a Bill of *Reuivour*, because the woman shall not bee constrained to stand to that answer, which shee together with her Husband, or solely (as Wife vnto the Man) made to the Complainant, for that she was then vnder Couerture.

And after her husbands death (she being seized

zed or possessed of the thing in controuersie as in her former estate) may (if shee please) make a new answere, and shall neuer be bound or concluded by the answere which shee made in her husbands life-time, for that she was then vnder Couerture. And yet (if shee so please) she may stand to that former answer of hers, and proceed in that suite accordingly.

But if the Complainant exhibite a Bill against a *feme sole*, wherevnto she maketh answere, and afterwards marryeth, the Complainant may proceed against her husband and her, without any Bill of *Reuivor*: And her husband shall be bound by that answere which she made before marriage, because she shall not be admitted to take aduantage of her owne act.

Where (on the contrarie) if a *feme sole* exhibite her Bill of Complaint, wherevnto the Defendant answereth, and afterwards shee taketh an Husband, her husband and she shall not proceed against the Defendant, without a bill of *Reuivor*; because her suite is abated by her owne act, wherof the Defendant may take aduantage.

And if a Man and his Wife exhibite a bill of complaint, wherevnto the Defendant answereth, and the man dyeth, the woman shall be at her choyce whether she will exhibite a new bill, or proceed vpon the former: And the Defendant shall be bound to his answere made to the Man and his Wife.

Also, if two seized of ioynt estate ; or two Executors of one Testament ; or two *Obligors* or *Obligees* exhibit a bill of complaint, wherevnto the Defendant answereth, and one of them dyeth;

The Suruiuor of them may proceed against the Defendant, without any Bill of *Reuivor*.

And in all cases where a Bill of *Reuivor* is requisit, after the said Bill exhibited, and a *Sub panna* serued on the Defendant to that purpose, The Complainant shall be in the same case, as he for his predecessors was, at the time when the cause of *Reuivor* accrewed, vnlesse the Defendant shall appeare vpon the said *Sub panna*, and by way of answer shew good cause to the contrarie : which cause must be, That the Complainant in the Bill of *Reuivor*, is not Heire, or Executor, nor standeth in the like case, nor hath the like interest, or the like cause of complaint, as before in the former suite:

And no other cause is to be allowed.

If the Complainant exhibit his Bill of complaint, for Title of any Lands, not of the yeerely value of forty shillings : And the same to be proued by *Affidavit*, or deposed, the Defendant shall be dismissed.

Also, If the Defendant demurre to any Bill exhibited against him, or disclaime : The Complainant cannot reply :

For if the Defendant be called vp by *Sub panna*,

ad Reivngendum, hauing before made no other answer, but a *Demurrer* or a *Disclaimer*: He shall haue costs for vniust vexation.

But after the Defendant hath answered, the Complainant hath liberty all that Terme to Reply at pleasure.

And if hee Reply not that Terme: The Defendants Attourney may giue to the Complainants Attourney a seuen-nights day in the time of the next Terme following to Reply; which day being past, and no Replication brought in; On the day then next after it, the Defendant may haue Costs, as in case of a Bill to bee recovered.

But if the Complainants Replication be put into the Court, The Defendant can haue no Costs allowed vnto him:

But then the Defendant may, if hee will, *Reioyne gratis* to the *Replication*, and enforce the Complainant to goe to Commission:

Or else he may haue a Commission to examine Witnesse on his owne part against the Complainant, and shall haue the carriage thereof.

This Commission shall bee directed to foure such persons as the Defendant shall name; Or to any three or two of them, without any warning to be giuen to the Complainant.

But if in this case the Complainant will, hee may ioyne in Commission, and haue the carriage of it himselfe:

And then he must name two indifferent Commissioners : And the Defendant must name the like : (which beeing agreed vpon) The Complainant must giue to the Defendant fourteene dayes warning, of the day and place, when, and where the said Commission shall be executed.

This warning must be giuen, either by himselfe in person ; Or else left in writing , at the house or place , where the Defendant doth most reside.

The Complainant in all cases of Commission to examine Witnesses, shall haue the first choise of Commissioners, and carriage of the Commission, and for his reliefe,

He shall examine Witnesses, in all these cases following: (viz.)

First, vpon a Bill by him preferred to examine Witnesses in perpetuall memorie of the matter: To command the Defendant either by himselfe, or by his Attourney to appeare immediately : and within fourteene dayes to shew cause why the Complainant should not examine Witnesses (in perpetuall memory.)

And if the Defendant do therevpon appeare by himselfe, or his Attourney , and shew good
cause

cause to the contrary, such as the Court shall allow : Then the Complainant shall not examine any Witnesses *in perpetuam rei memoriam*, or perpetuall memory.

But if hee doe shew no sufficient cause, nor iojne in Commission with the Complainant: Then the Complainants Attourney must prefer fixe Commissioners names to the Lord Keeper, or the Court, &c. Foure of the which, or foure such other, as the Lord Keeper or the Court shal appoint, shall be set downe for Commissioners ; And a Commission for the Complainant shall bee made forth, and directed to the said foure Commissioners, or any three, or two of them, to examine Witnesses, according to certaine Articles heretofore set downe in *Chancerie* : which witnesses are neuer to be published, during their liues, vnlesse Oath be made,

That the Complainant hath some Tryall wherein he should giue them in Euidence :

That the Witnesses are not able to trauell to the place where the Tryall should be,

Or the party Defendant will consent therevnto.

Neither can they be giuen in Euidence against any other, but against the partie which was called, to shew cause why the said Witnesses should not be examined, or some other, claiming vnder him by some interest which accrewed vnto them, after the Bill preferred by the Complainant

nant for the examination of witnesses.

It is also vsed, that either partie, after the Bill is exhibited, and Answere made thereunto, may examine witnesses in Court heere before one of the Examiners.

But the Complainant can haue no Commission to examine his witnesses, vnlesse, and before the Defendant be serued with a *Sub pœna ad Reiungendum*: Which *Sub pœna* must be serued in such maner as is before mentioned:

And then vpon *Affidavit* made of the seruing thereof; The Complainant (if the Defendant appeare not that Terme) shall haue a Commission directed to foure such Commissioners as himselfe shall name, or to any three or two of them, for the examination of witnesses on his part, against the Defendant, without any warrant to be giuen to the Defendant.

Vpon the returne of the said *Sub pœna ad Reiungendum*, The Complainant may giue to the Defendant a day to *Reioyne*, (*viz.*) The same day seuen-night.

By which time, if the Defendant doe not reioyne, he shall lose the benefit thereof.

And when that day so giuen to reioyne, is past; The Complainant may giue two ordinarie dayes, (*viz.*) two Returnes, for the Defendant to produce his witnesses; And then a Peremptory day:

Before which day past, if the Defendant doe
come

come in, hee may haue a Commission to examine witnesses of course, without any motion; but hee shal lose the benefit of *Reioynder*: And the Complainant, if he please to ioyne in the Commission, shall haue the carriage of it, giuing to the Defendant foureteene dayes warning, of the day and place, when and where the said Commission shall be executed.

In the ioyning of this Commission, The Complainant must first name one Commissioner, vnto whom the Defendant may giue generall exception:

The Defendant must name the second;
The Complainant the third,
And the Defendant the fourth.

*The common exceptions which be
giuen to Commissioners, are
these, (viz.)*

That the Commissioner named, is of Kindred or Allied to the party, for whom he is named:

That he is a Master to the partie:

That he is a Land-lord vnto him:

Or a Partner vnto him:

Or haue suite in Law with the aduerse partie to him, by and for whom he is named:

D

Or

Or is of Counsaile, An Attourney, or a Follower of the cause for the one party:

Or one to whom the party is indebted:

Or any other apparant cause of partialitie, or siding with either partie.

And it is commonly vsed, that either partie may giue exception to one; And they seldome giue exception to any more then one, on either partie.

If the Complainant make default, & procure not the Commission to be executed: Then the Defendants Attourney may renue the said Commission to the former Commissioners; And the Defendant shall haue the carriage thereof (Giuing to the Complainant foureteene dayes warning, of the day and place, when, and where it shall be executed)

And yet neuerthelesse, The Complainants Attourney may, if the Complainant will, renue the said Commission also, And giue the like warning also vnto the Defendant.

Vpon the execution of either of which Commissions, and returne whereof; either of them may giue to the other a day, to shew cause why Publication should not be granted.

The day so giuen, is one weeke; which being expired, and no cause shewed to the contrary; Then Publication is granted: And neither partie can examine any Witnesses afterwards, vnlesse it be by especiall order of the Court; which

is neuer granted, without an Oath made, That the partie which requireth the same, nor any of them, hath seene, or bin made priuie to any examination of any the Witnessses formerly examined in this Court by either of the parties : And some good cause bee shewne, either by Oath, or Certificate of Cómmissioners, why the party could not get his said Witnessses examined within the time limited for their examination.

In which case, sometimes, the Court giueth order to examine Witnessses by a time prefixed, at the parties perill, with this *Prouiso*, That the party shal not in the meane time see the said former examination.

And sometimes the Court giueth order, that the said party shall examine his Witnessses, to informe the conscience of the Iudge only, and not otherwise.

These Depositions are neuer publisht, but by especiall order or consent of the parties ; but deliuered to the Iudge, sealed vp by the Officer, vnder whose custodie they doe remaine, to the end he may peruse them.

If any one be called by a *Sub pœna*, to appeare in this Court : And vpon his appearance, the Complainant or any other doth arrest him in any other Court ; He shall haue a *Super-sedeas* to discharge the Aétion, because he must haue free going, and free comming.

But it is not so, if the Complainant be arrested,

except it be after issue is ioyned, and a day is giuen for the matter to be heard. And the Complainant comming to the Court, with euidence to maintaine his cause, is arrested : The Court in this case shall defend him, and set him free to follow his suite.

But this is seldome seene : And hee that is Plaintiffe in the other Court, may declare against him heere *Presentem in curia*, if he please. See 37. *Eliz.*

If any one who hath priuiledge in *Chancerie*, be arrested into another Court, in a ioynt-action with his Wife, for matter concerning her : Notwithstanding the Couerture, shee shall not haue any benefit of priuiledge here. See *Powles* case.

If one who is priuiledged in another Court, as in the *Kings Bench*, *Common-pleas*, or *Exchequer*, doe arrest one of this Court, who is heere priuiledged as a Clerke, or otherwise : The Priuiledge here (howsoeuer it is in other cases sufficient to supersede the proceeding else-where) yet in this case I haue neuer seene it to preuaile against the other priuiledge.

For amongst like priuiledged men, most speed carries it away.

*The Order made and ordained by
Sir NICHOLAS BACON,
Knight, Lord Keeper of the
Great Seale, touching the Exa-
mination of Witnesses (in perpe-
tuam rei memoriam:) Dated
the tenth of December, in the
third yeere of the late Qu. Eliz.
followeth.*

First, the Commissioners shall examine no
Witnesses, but such as bee aged and impo-
tent.

Item, The Complainant, or party, who sueth
forth the Commission, shall giue warning by pre-
cept from the Commissioners, vnto the party
that should take preiudice by this examination,
by the space of fourteene dayes at the least, of
the time, and place; when, and where the said
Commissioners will sit vpon this Commission.

And the same warning being so giuen; The
Commissioners are to be satisfied by the Oath of
the partie Cōplainant, or of some other credible
person, that warning is giuen accordingly, be-

fore they shall proceed to the execution of their Commission.

Item, If the partie Aduersant, or Defendant, can shew before the Commissioners good cause of exception, either against the Witnesses produced by the Complainant, or any of them; Or against the Commissioners themselues; Or otherwise: Then they shall cease, and forbear any farther execution of the Commission.

And the Commissioners shall certifie and returne the said causes, and exceptions, vp with the Commission.

Item, If the partie Aduersant cannot shew sufficient cause (as aforesaid:) Then the Commissioners shal proceed to the examination of Witnesses: And the party Aduersant, or Defendant, shall haue liberty to ioyne in the examination of the same Witnesses, or of any other likewise vpon Interrogatories on his behalfe (if he thinke good.)

Item, The Commissioners shall certifie in their returne of the Commission, such exceptions as the Defendant shall take against the proceeding in the same Commission: And whether the Defendant did appeare or no?

And if the Defendant did not appeare; They are likewise to certifie and returne, whether *Affidavit* were made of the giuing of warning by precept (as aforesaid) or no?

Orders to be obserued before the
granting of Publication of the
said Commission.

THe party who prayeth publication, shall first by himselfe, or some other, make Oath that the Depositions of the same Witnesses, are necessarily to bee giuen in euidence on his behalfe.

Item, Oath also must be made, that the same Witnesses be either dead, or so aged, or impotent, as they cannot trauell to testifie (*viua voce*) without danger of life.

Item, This Oath being so taken, a Master of the *Chancerie* must first open the Commission, and consider whether this Order before mentioned hath been obserued in al points, wherein he being satisfied, Publication is therevpon to be granted.

Provided alwayes, that no Depositions shall be giuen in euidence, but against those persons that were warned by precept (as aforesaid) or against their Heires or Assignes.

And provided also, That after examination had, and taken (as aforesaid) And after Publication had, and granted of the same examinations: The partie Aduersant, or Defendant, shall
not

not be admitted to haue any new examination on his behalfe, concerning the same matter.

Item, This Order is to bee obserued, in case where the Commission is *ex parte querentis* onely, and it is to be engrossed in Parchment, and subscribed with the hand of the Register, and to be annexed to euery of the said Commissions; but not otherwise:

For if the Defendant ioyne; then these Articles shall not need.

The difference used betweene a Ioynt-Commission in the aforesaid nature; And a Commission ex parte, followeth.

THE Ioynt-Commission is made in forme, as all other generall Commissions to examine Witnesses, *Super Interrogator. ministrand. be*; Adding to the end of the same, these words, (*viz*) *in perpetuam rei memoriam permanfur.*

The Commission *ex parte*, is to haue these rules inserted vnder the Registers hand: And the Commissioners names are specially to be assigned by the Lord Keeper, or Lord Chancellor for the time being.

Termino

Termino Michaelis, Anno Regni
Eliz. Reg. Sext.

Memorandum, That all Iniunctions granted for preferuation of possession, during the suite in the Court of *Chancerie*, shall haue this Clause and condition contained in them, (*viz.*) That the party who prayeth possession, was in possession at the time of the Bill exhibited, and certaine yeeres before: And that his interest is not determined by forfeiture, surrender, or other lawfull meanes.

And Bond must be put in by the partie who prayeth the possession, of the penaltie of tenne pound, with condition that this Information aforesaid is true.

Item, that all Iniunctions granted for the stay of Suites at the Common Law, shall haue this Clause and condition contained in them: (*viz.*) That the same Suite desired to bee staid, is for, and concerning the same matter depending in this Court, and as was begunne at the Common Law, after the Bill exhibited into this Court; and that Bond be put in (as aforesaid.)

Item, That no *speciall Certiorare* doe passe without Bond first giuen, on the behalfe of the partie who desireth the same; with condition, That the Bill exhibited containeth matter suffi-

cient to beare a *Certiorare*, And that hee shall proue the Contents of his Bill to be true, within fifteene dayes after the returne of the Writ, according to the order and course of this Court:

And that vpon the granting of euery *Procedendo*, the Bond aforesaid be remembered to the Lord Keeper.

*Termino Trinitatis, Anno Regni
Eliz. Reg. Septimo.*

IT is ordered, that all Suites for no more then sixe acres of Land, or lesse, except the same be worth forty shilling by the yeere;

And all Suites for matter vnder the value of ten pounds, shall bee dismissed this Court, for such cause onely proued. And this Court shall not retaine any such: But the party who bringeth the same hither, shall pay Costs to the Defendant, as this Court shall award.

*Termino Michaelis, Anno Regni
Eliz. Reg. Septimo.*

IT is Ordered, that all *Processe* to heare Iudgement, bee returnable fixe or seuen dayes before the Day of Hearing, and not aboue, sauing in the beginning of the Terme, when the

the time will not permit so long warning.

And the said Writs must be endorsed on the backside, with the very day appointed for the hearing of Iudgement. And so much for that Terme.

By the generall custome, and ancient vsage of this Court, All Bills shall be retainable heere, in case where the Equitie of the cause requireth and beareth it; And wherein the Common Law doth affoord no reliefe, but rather pressure and rigour.

After Publication once had, the Complainant may procure a day of Hearing of course, by such an one of the sixe Clerkes as dealeth for him. And he may at the end of the Terme, when the Lord Keeper setteth downe the Dayes of Hearings, procure his Hearing to bee set downe amongst those assigned for the next succeeding Terme.

This was wont to bee the ancient course of procuring of Hearings, howsoever it was lately dis-vsed; And (as I take it) the same is now restored againe, to the good contentment of all Suitors in this Court.

*The Order of Proceeding against
such as refuse to obey his Ma-
iesties Injunctions, proceeding
and issuing out of the Court of
Chancerie.*

FOr the breach of an Injunction, there bee commonly three punishments, (*viz.*)

One, that the *Contemptor* shall not bee heard in the principall cause, till he haue fulfilled the *Injunction* in euery point.

Another, that he shall be committed to Ward in the meane time, And there continue, till hee doe conforme himselfe, and become obedient to the Injunction.

The third, that hee shall fine to the King for his *Contempt*, as the Lord *Keeper*, or Lord *Chancellor* for the time being, shall please to award. And the Lord *Keeper*, or Lord *Chancellor* may dispense herein, as they shall finde cause and reason.

Item, If the *Contemptor* doe not appeare vpon sight of the *Injunction*, or not obey the same; but doth commit some Act in contempt or neglect thereof: Then vpon an *Affedavit* made of the seruing of the said *Injunction*, There shall bee awarded

awarded an Attachment against the said *Contemptor*, &c. as in the case of *Proces* before mentioned and declared.

Item, If the *Contemptor* doe appeare, and hath not fulfilled and performed the *Iniunction*; and yet, at his comming doth offer to fulfill it, alleging that he cannot doe it here conueniently: Then the Lord *Keeper*, or Lord *Chancellor* vseth to appoint him a certaine day, within which hee must doe it: And so, vpon Bond taken of him, with Sureties, who are to vndertake, (in case his owne securitie be not held sufficient) that he shall performe the *Iniunction* within the time giuen, or at the day to render his body to prison, there to remaine, till he haue fulfilled the same, He may be licensed to depart.

What I haue hitherto set downie, is desumed and collected out of the ancient forme of practice and orders of this Court of *Chancery*: I shal now deliuer, the orders and practice of later times, most of which are agreeable with the former: some are *de nouo* ordained; and all are subiect to addition or alteration, as the Court shall thinke fitting, and done *salua Prerogatiua*

Curia.
 E 2 The
 of the Court

The moderne Orders and Ordinances of Chancerie follow.

Affedauits.

NO *Affedauit* shall be admitted or taken, which shall tend to the prooffe or dis-prooffe of the Title or matter in question, or touching the merits of the cause :

Neither shall any such matter be colourably inserted, in any *Affedauit* to be made touching the *Seruing of Proces.*

No *Affedauit* shall be taken against *Affedauit*, so farre as the Master of *Chancerie* can discern, or take knowledge, &c.

If any such be taken, The latter shall not bee vsed or read in Court.

Contempts.

IN case of Contempts, granted vpon force, or ill words, vsed vpon seruing of *Proces*, Or other words of *Scandall*, proued by *Affedauit*, the partie is forthwith to stand committed :

But for other Contempts, against the Orders or Decrees of the Court ;

First,

First, an Attachment goes fourth vpon *Affidavit* made.

Then the partie is to be examined vpon Interrogatories, and

His examination is to be referred :

And if vpon examination, he confesse matter of Contempt, he is to be committed :

If he confesse it not, The Aduerse partie may examine Witnesses, to proue the Contempt ;

And if the Contempt appeare vpon prooffe, the contemptor is to be committed therefore.

But if the Aduerse partie faile to prooue the said Contempt, Or faile to put in his Interrogatories or other prosecution, Then the partie charged with the Contempt, is to bee discharged with good costs.

They that are in Contempt, especially so far, as *Proclamation of Rebellion*, are not to be heard neither in that suite, nor in any other, except the Court of speciall grace, suspend the Contempt.

Imprisonment vpon *Contempts* for matters past, may bee discharged of grace, after sufficient punishment : Or it may be otherwise dispensed withall in such case :

But if the Imprisonment bec for performance of any order of the Court in force : Then the *Contemptor* ought not to bee discharged, except he first obey : Only, the Contempt may be suspended for a time.

Petitions.

NO *Iniunctions*, *Sequestrations*, *Dismissions*, *Retainer* vpon *Dismissions*, or *Finall Orders*, shall be granted vpon *Petitions*.

No former Order made in Court, is to be altered, crossed or explained, vpon any *Petition*; But such Orders may be onely staid vpon *Petition*, for a small time, till the matter may be mo-ued in Court.

No *Commissions* for examination of Witnesses, shall be discharged; Nor any examinations, or depositions of Witnesses, shall be suppressed vpon *Petition*, vnlesse it be first referred, and Certificate be made thereupon.

No *Demurrer* shall bee ouer-ruled vpon any *Petition*.

Iniunctions.

I*niunctions* for possession or for stay of Suites after verdict, are to bee presented to the Lord Keeper, or Lord Chancellor, being together with the Orders whereupon they goe forth; That his Lordship may take consideration of the Orders, before he signe them.

No *Iniunction* of any nature, shall be granted, reui-

reuiued, dissolued, or staid vpon priuate Petition.

No *Iniunction* to stay suites at the Common Law, shall bee granted vpon *prioritie* of suite onely :

Or vpon the *Surmise* of the Complainants Bill only ;

But vpon matter confessed in the Answer of the Defendant :

Or matter of *Record* :

Or writing plainely appearing :

Or when the Defendant is in Contempt for not answering :

Or when the debt desired to be staid, appeareth to be old, and hath slept long :

The Creditor and the Debtor haue bin dead some good time, before the suite brought :

Where the Defendant appeares not, but sites an Attachment : Or when he doth appeare and departes without Answer, and is vnder Attachment for not answering : Or where hee takes Oath, that hee cannot answer without sight of Euidences in the Countrey : Or where after answer, he sues at Cōmon Law by Attourney : Or absents himselfe beyond Sea :

In all these cases, an *Iniunction* may be granted, for stay of suites at the Common Law, vntill the partie answer, or appeare in person in Court ; And the Court giue further order.

But neuerthelesse, vpon Answer put in, if there be no motion made the same Terme, or

at the next generall seale after the Terme, to continue the *Iniunction*, in regard, and vpon suggestion of the insufficiencie of the Answer put in: Or in regard of the matter confessed in the Answer: Then the *Iniunction* shall dye, and dissolve, without any speciall order.

In the case aforesaid, where an *Iniunction* is to be granted, for stay of Suits at the Common Law; If the like suite be in the *Chancerie*, either by *Scire facias*; or by *Priviledge*, or *English Bill*: Then the suite is to bee staid by order of the Court, as it is in other Courts, by *Iniunction*.

Where an *Iniunction* hath beene obtained for staying of Suites at the Common Law; and no prosecution is had by the space of three Termes afterwards: The *Iniunction* is to fall of it selfe, without farther motion.

Where a Bill comes in after an Arrest at the Common Law for a Debt, No *Iniunction* shall be granted, without bringing the principall money into the Court; Except there appeare in the Defendants answer, or by sight of Writings, plaine matter, tending to discharge the Debt in Equitic. But if an *Iniunction* be awarded, and disobeyed in that case: Then no money shall bee brought in, or deposited, in regard of the contempt.

Iniunctions for Possession are not to be granted before a Decree; but where the possession hath continued by the space of three yeeres past before

fore the Bill exhibited, and vpon the same Title: And not vpon any Title by leaue, or determined.

In case where the Defendant sits all the processe of Contempt, and can not be found by the Sergeant at Armes; Or résists the Sergeant; Or makes rescous, A Sequestration shall be granted of the Land in question: And if the Defendant doe not render himselfe within the yeere: Then an *Iniunction* shall bee granted for the Possession.

Iniunctions against felling of Timber; Or plowing vp of ancient Pastures; Or for the maintaining of Inclosures, Or the like, shall be granted according to the circumstances of the case: But not in case, where the Defendant vpon his answere, claimeth a state of Inheritance; except it be where he claimeth the Land in trust, or vpon some other speciall ground.

Iniunctions shall bee inrolled, or the *Transcripts* thereof bee fyled.

Order.

WHere any Order shall bee made against the generall Rules of the Court: There the *Register* shall plainly and expressely set down the particular reasons and grounds, mouing the Court to vary from the generall rule.

No Order of the publike Court is alterable vpon *Petition*: vide in the Title *Petition*.

Register: Order.

THe *Registers* are to be sworne:

If any Order shall be made, & the Court not informed of the last material Order formerly made; No benefit shall be taken by such Order, as being granted by abuse, and surreption: And to that end the *Register* ought duely to mention the last former Order in the present Order.

No Order shall be explained vpon any *Petition*, but onely in Court as they are made: And the *Register* is to set downe the Orders, as they are pronounced by the Court, truly, at his perill, without troubling the Lord *Keeper*, or Lord *Chancellour*, by any priuate attending of him, to explaine his meaning: And if any explanation be desired, It is to be done by publique motion, where the other partie may be heard.

No draught of any Order shall be deliuered by the *Register* to either partie, without keeping of a copie by him: To the end that if the Order be not entred; Neuerthelesse, the Court may be enformed what was formerly done, and not be put to new trouble; And to the end also, that knowledge of Orders be not kept back too long from either party, but may presently appear at the Office.

Where

Where a cause hath been debated vpon hearing of both parties; And opinion hath been deliuered by the Court; and neuerthelesse, the cause referred to Treatie: The *Registers* are not to omit the opinion of the Court in drawing of the Order of Reference, except the Court doe specially declare, That it is to be entred without any opinion either way:

In which case, neuerthelesse, the *Registers* are out of their short Notes, to draw vp some more full remembrance of that which passed in Court, to informe the Court if the cause come backe, and can not be agreed.

The *Registers* vpon deliuerie of the draught of any Order, vnto the counsell of either party, are not to respect the interlineations, or alterations of the said counsell (be the said counsell neuer so great) further then as to put them in remembrance of that which was truly deliuered in Court; And so to conceiue the Order vpon their Oath and duty, without any other or farther respect.

The *Registers* are to be carefull in the penning and drawing vp of *Decrees*; And especially in matters of difficultie, & weight: And therefore when they present the same to the Lord Keeper or Lord *Chancellor*, They ought to giue him vnderstanding which are such *Decrees* of weight, that they may be read and reuiewed, before his Lordship signe them.

Decrees.

THe *Decrees* granted at the *Rolls*, are to bee presented before the Lord *Keeper*, or Lord *Chantellour* for the time being, with the Order wherevpon they are drawne, within two or three dayes after euery Terme.

Decree.

NO *Decree* shal be reuerfed, altered, or explained, being once vnder the Great Seale, but vpon Bill of *Reuiewe*: And no Bill of *Reuiewe* shal be admitted, except it be vpon error in Law, appearing in the body of the *Decree*, without farther examination of matters in Fact: Or hee shall shew some new matter which hath risen in time after the *Decree*, and not any new prooffe which might haue bene vsed when the *Decree* was made.

Neuerthelesse, vpon new prooffe which is come to light, since, and after the *Decree* made, and could not possibly haue bene vsed at the time when the *Decree* passed: a Bill of *Reuiewe* may be granted by the speciall Licence of the Court, and not otherwise.

In case of mis-casting, being a matter Demonstratiue, a *Decree* may be explained, and reconciled by an Order without Bill of *Reuiewe*.

Where

Where note, that by the word *Mis-casting*, is not intended any pretended *Mis-casting*, or mis-valuing, but onely error in the Auditing, or numbring.

No Bill of *Reuiewe* shall be admitted, or any other new Bill to change matter decreed: except the *Decree* bee first obtained, and performed: As if it be for Land; that the possession be yeelded: If it be for money; that the money be paid: If it be for euidence; that the euidence be brought in; and so in other cases which stand vpon the strength of the *Decree* alone.

But if any Act be desired to bee done, which extinguisheth the parties right at the Common Law (as making of Assurance or Release: Acknowledging of satisfaction; Cancelling of Records or Euidence, and the like:) Those parts of the *Decree* are to be spared, vntill the Bill of *Reuiewe* bee determined: But such Sparing is to be warranted by publique order made in Court.

No *Decree* shall be made vpon pretence of equitie, against the expresse prouision of an Act of Parliament.

Neuerthelesse, if the construction of such Act of Parliament; hath for a time gone one way in generall opinion and reputation; And after by a later iudgement hath beene controlled: Then Reliefe may be giuen vpon matter of equity, for cases arising before the said Iudgement: because the subject was in no default.

Imprisonment for breach of a *Decree*, is in nature of an *Execution*; And therefore the custody ought to be straight; And the partie not to haue any libertie to goe abroad, but by speciall license of the Lord *Keeper*, or Lord *Chancellor* beeing: But no close *Imprisonment* is to be but by expresse order for wilfull and extraordinarie *Contempts* and *Disobedience* (as hath been vsed.)

In case of obstinate *Disobedience*, in the breach of a *Decree*, an *Iniunction* is to be granted *Sub pena* of a summe: And vpon *Affidavit*, or other sufficient prooffe of persisting in contempt, *Fines* are to bee pronounced by the Lord *Keeper*, or Lord *Chancellour* in open Court: And the same are to be estreated downe into the *Hannaper* by speciall order.

In case of a *Decree* made for the possession of Land, a *Writ of Execution* goeth forth. And if that be disobeyed: Then *Processe of Contempt*, according to the course of the Court, is to goe forth against the person, vnto the Commission of *Rebellion*; And then a *Sergeant at Armes* by special *Warrant*: And in case the *Sergeant at Armes* can not find him; Or he be resisted; Or if he vpon his *Commitment* do persist in his *Disobedience*, an *Iniunction* is to be granted for the possession; And in case that it also be disobeyed: Then a Commission is to bee made to the *Sheriffe*, to put his aduersarie into possession.

Where the party is committed for breach of a
Decree,

Decree, He is not to be enlarged, vntill the *Decree* bee fully performed in all things which are to be done presently.

But if there be other parts of the *Decree* to be performed at dayes or times to come: Then hee may be enlarged by order of the Court, entring into Recognizance with Sureties for the performance *defuturo*, but not otherwise.

Where causes come to hearing in Court; No *Decree* bindeth any person, who was not serued with Proceffe *ad audiendum Iudicium*, according to the course of the Court; Or did appeare *gratis* in person in the Court.

No *Decree* bindeth any one that commeth in *bona fide*, by Conueyance from the Defendant before the Bill exhibited; And is made no party either by Bill or by Order:

But where hee comes in *pendente lite*, and while the suite is in full prosecution, and without any colour of allowance, or priuitie of the Court; There regularly the *Decree* bindeth:

But if there were any intermission of suite; Or the Court were made acquainted with the Conueyance; The Court is to giue order vpon the speciall matter, according to Iustice.

Where a *Decree* is made for a Rent to bee paid out of Land; Or a summe of money to be leuied vpon the profits of Land; There a *Sequestration* of the same Land beeing in the

Defendants hands, may bee granted vpon the *Decree.*

Where the *Decree* of the *Provinciall* countsailes; Or the Court of *Requests*, Or the like, are by contumacie or other meanes interrupted: There the Court of *Chancerie*, vpon a Bill preferred for corroboration of the *Decrees* of that Iurisdiction, shall giue remedy.

Where any cause comes to Hearing heere, which hath bene formerly *Decreed* in any other of the Kings Courts of Iustice at *Westminster*; Such *Decree* shall be first read, and then this Court shall proceed to heare the rest of the evidence on both sides.

Decrees vpon Suites brought after Iudgement, shall containe no words to make voide, or weaken the Iudgement: But shall onely correct the corrupt conscience of the partie, And rule him to make restitution; or to performe other acts, according to the equitie of the cause.

Bill of Reuiewe.

D*Ecree*s are not to be reuerfed, altered, or explained, being once vnder the Great Seale, but vpon *Bill of Reuiewe*:

Bill of Reuiewe shall not be admitted, except the *Decree* be first obeyed and performed.

No *Bill of Reuiewe* shall bee put in, except the party

partie that preferres it, enter into *Recognizance*, with Sureties for the satisfiing of Costs and Damages for the delay, if it be found against him.

Reference, Report.

NO *Reference* vpon a *Demurrer*, or question touching the Iurisdiction of this Court, shall be made to the Masters of the *Chancerie*: But such *Demurrer* shall bee heard and ruled in the Court, or by the Lord *Keeper* or Lord *Chancellor* himselfe.

For the confirming or ratifying of any *Report*, No Order shall be made, without day to be giuen, by the space of a Seuen-night (at least) to speake vnto it in Court.

No *Reference* shall bee made to any Master of the Court, or any other Commissioner or Commissioners, to heare and determine, where the Cause is gone so farre as to examination of Witnesses: Except it bee in especiall cases of parties neere in bloud, or of extreme pouertie, Or by consent:

And generally, *References* of the state of the Cause, are to be sparingly granted; except it be by consent of the parties.

No *Report* shall be respected in Court, which exceedeth the Warrant of the Order of *Reference* which leadeth it.

The Masters of the Court are required, that by *Report* they doe not certifie the estate of the cause; as if they would make *Breviates* of the Evidience on both sides, which doth little ease the Court: But that they doe it with some opinion; Or otherwise, in case they thinke it too doubtfull, to giue opinion therein; And thereupon they are to make such speciall *Certificate*; And the Cause is to goe on to a Iudiciall hearing, without respect had to the same.

If both parties consent to a *Reference* for the examination of Accompts, to make the Cause more ready for hearing, it may be granted. But generally, matters of Accompt, excepting in very weighty Causes, are not fit for the Court, but are to bee prepared by *Reference*, with this prouision neuerthelesse; That the Causes come first to a Hearing, and vpon the entrance into a Hearing, they may receiue some direction; and bee turned ouer to be considered and prepared.

The like course of *Reference* is to be taken for the examination of Court Rolles, vpon any Customes; And the Copies shall not bee referred to any one Master, but to two Masters at the least.

No *Reference* shall be made of the *Insufficiencie* of any Answer, without shewing of some particular points of the defects thereof; And not vpon surmize of the *Insufficiencie* generally.

Where

Where a Trust is confessed by the Defendants Answer, There needeth no farther Hearing of the Cause, but a *Reference* presently to be made of the Accompts; And so they are to goe on to the Hearing of the Accompts.

Dismission.

WHERE causes are dismiss vpon full Hearing, And the Dismission signed by the Lord *Keeper* or Lord *Chancellor*; Such Causes shall not bee retained againe, neither shall any new Bill bee admittted, except it be vpon new matter, like vnto the case of the Bill of *Reuiewe*.

In case of all other Dismissions, which are not vpon Hearing of the Cause; If any new Bill be brought, The Dismission is to be pleaded; And after *Reference* and *Report* of the *Conents* of both Suites, And consideration taken of the cause or causes of the former Dismission; The Court shall rule and order the Retayning or Dismission of the new Bill, according to Iustice and the nature of the Case.

All suites grounded vpon Wills *Nuncupatine*, Leases *paroll*, Or vpon long Leases, that tend to the defeating of the Kings *Tenures*, Or for the establishing of *Perpetuities*; Or granted vpon *Remainder* ouer vnto the Crowne, to defeat purchasers; Or for *Brocadge* or Rewards to

make mariages; Or for Bargaine at play; Or Wagers for Bargaines for Offices, contrary to the Statute of the Second of *Edward* the sixt; Or vpon Contracts for *Vfurie* or *Symony*, are Regularly to be dismissed vpon motion, if they be the whole matter of the Bill; And there be no speciall circumstances to moue the Court to allow them a proceeding:

And all Suites vnder the value of ten pounds, are regularly to be dismissed.

Dismissions are properly to be prayed and had, either vpon Hearing, or vpon Plea vnto the Bill, when the Cause comes first into the Court.

But *Dismissions* are not to be prayed after the parties haue beene at charge of examination of Witnesses, except it be vpon speciall cause.

If the Complainant discontinue prosecution, after all the Defendants haue answered, aboue the space of one whole Terme; The Cause is to bee dismissed of course, without motion:

But after *Replication* is put in, no Cause is to bee dismissed without motion and order of the Court.

For double vexation, the Cause may bee dismissed.

Where Causes are remoued by speciall *Certiorare*, vpon a Bill conteining matter of equitie, The Complainant is vpon receipt of his Writ, to put in Bond to proue his Suggestions within fourteene daies after the receipt; which if he doe
not

not proue; Then vpon Certificate from either of the Examiners, presented to the Lord *Keeper* or Lord *Chancellor*, The Cause shall bee dismiss with costs, And a *Procedendo* shall be granted.

Demurrer.

D*emurrers* and *Pleas* which tend to the discharging of any Suite, shall bee heard first vpon euery day of Orders; That the Subiect may knowe, whether he shall need to giue further attendance or no.

A *Demurrer* is properly vpon matter *defectiue* cōtained in the Bill it selfe, Or forraigne matter:

But a *Plea* is of forraigne matter, to discharge or stay the Suite: (as)

That the Cause hath bin formerly dismiss:

That the Complainant is vtlawed:

That the Complainant is excommunicate:

That there is another Bill depending for the same Cause:

Or the like.

And such *Plea* may bee put in without Oath, in case where the matter of *Plea* appeares vpon *Record*: But if it bee any thing which doth not appeare vpon *Record*, Then the *Plea* must be put in vpon Oath.

No *Vtlary* shall be allowed, without pleading the *Record sub pede Sigilli*: Nor *Plea* of Excommuni-

munication without the Seale of the Ordinarie.

Where any suite appeareth vpon the Bill to be of the nature of any of those which are Regularly to be dismissed, according to the Order before mentioned : The said Order is to bee set forth by way of *Demurrer*.

Answer.

WHere an Answer shall be certified to be insufficient : The Defendant is to pay costs.

And if a second Answer be returned insufficient in the points before certified for insufficient : then he shall pay double Costs.

And vpon the third like case, treble Costs.

And vpon the fourth, quadruple Costs : And then to bee committed also till hee shall haue made a perfect and sufficient answer ; And hee shall be examined vpon *Interrogatories*, touching the points *defective* in his answer.

But if any Answer be certified to be sufficient ; then the Complainant is to pay costs.

No *insufficiencie* of answer can be taken hold of, after *Replication* put in ; Because it is admitted for *sufficient* by the *Replication*.

An answer to a matter charged as the Defendants owne fact, must be direct, without saying that *It is to his remembrance*, or *As hee beleueth*,

If

If it bee laid downe to bee done within seuen yeeres before:

And if the Defendant doe deny the fact: Then hee must trauerse it directly, and not by way of *Negative pregnant*:

As if a fact be laid to be done with diuers circumstances; The Defendant may not Trauerse it *literally*, as it is laid in the Bill: But hee must Trauerse the point of substance.

So as if he bee charged with the receipt of an hundred pounds; He must Trauerse that he hath not receiued an hundred pounds, or any part thereof. And if he haue receiued any part of it; he must set downe what part he hath receiued.

If a Hearing be prayed vpon Bill and answer: The answer must be admitted to bee true in all points.

And a *Decree* ought not to be made, but vpon hearing of the answer read in Court.

Where no Counsaile appeares for the Defendant at the Hearing; And the Proesse appeares to haue bene serued; the Answer of such Defendant is to be read in Court.

No new matter is to be contained in any Replikation, except it be to auoid matter set forth in the Defendants Answer.

H

Other

Other things promiscuously laid together.

ALl Copies in *Chancerie* shall containe fifteene lines in euery sheete thereof, written orderly, and vnwastefully, vnto which shall be subscribed the name of the principall Clerke of the Office where it is written, or his Deputies name, for whom hee will answer. For which onely *Subscription*, no Fee at all shall be taken.

All Commissions for examination of WITNESSES, shall be *super Interrogatorijs inclusis*, or Interrogatories inclosed onely: And no returne of Depositions into this Court shall bee receiued; but such onely, as shall be either comprised in one Roll, subscribed with the names of the Commissioners; Or else in diuers Rolles, whereof each one shall be so subscribed.

If both parties agree in a Commission, And vpon warning giuen, the Defendant bringeth his Commissioners, but produceth no WITNESSE, nor ministreth Interrogatories, but afterwards seekes a new Commission, the same shall not be granted:

But neuerthelesse (vpon some extraordinarie excuse made for the Defendants default, He may haue

haue libertie granted vnto him by especiall order to examine his Witnessses in Court, vpon the former Interrogatories, giuing to the Complainant or his Attourney notice that hee may examine also if he will.

The Defendant is not to bee examined vpon Interrogatories, except it bee in very speciall cases, by expresse order of the Court, to sift out some fraud or practice, pregnantly appearing to the Court: Or otherwise vpon Offer of the Complainant, to bee concluded by the answere of the Defendant, without any liberty farther to disproue such answere, or to impeach him afterwards of Periury.

Decrees made in other Courts, may bee read vpon Hearing, without any Warrant by speciall order.

But no Depositions taken in any other Court, are to be read but by especiall order.

Regularly the Court granteth no order for reading of forreigne Depositions; except it bee betweene the same parties, and vpon the same Title, or cause of suite.

No examination is to be had of the credit of any Witnessse; but by speciall order, which is likewise sparingly to be granted.

Where it shall appeare the Complainant had not cause of suite, he shall pay to the Defendant his vtmost costs, to be assessed by the Court.

If any Bill, Answere, Replication, or Reioyn-

der shall bee found of an immoderate length, both the party who put it in, And his Counsell vnder whose hand it pass, shall bee fined by the Court.

If there be contained in any Bill, Answer, or other Pleading, or any Interrogatorie, any matter lybellous, or slanderous against any person that is not party to the suite, or against such as are parties to the suite vpon matter impertinent, or in Derogation of the settled Authoritie of any of his Maiesties Courts; Such Bills, Answers, Pleadings, or Interrogatories, shall be taken off the Fyle, and suppressed; And the parties shall be severely punished by Commitment, or Ignominy, as shall be thought fit for his abuse of the Court: And the Counsaillors at Law who shall set their hands to the same Bills, Answeres, Pleadings, or Interrogatories, shall likewise receiue reproofe, or punishment, if cause be.

No *Scire facias* shall be awarded vpon *Recognizances* not inrolled; Nor vpon *Recognizances* inrolled, vnlesse it be vpon examination of the *Record* with the Writ.

No *Recognizances* shall bee enrolled after the yeere, except it bee vpon speciall order of the Lord Keeper or Lord Chancellour beeing.

No Writ of *Ne exeat regna*, *Prohibition*, *Consultation*, *Statute of Northampton*, *Certiorare* speciall, or *Procedendo* speciall, or *Certiorare*, or *Procedendo* generall, more then once in the same cause.

cause; Nor *Habeas Corpus*, or *Corpus cum causa*,
De vi laica amonenda, or *Restitution* therevpon;
 Or *de Coronatore & viridiario elegendo*, *De homi-*
ne replegiando, *Assistas speciall*, *De bellino amo-*
uendo, *Certiorares super presentationibus factis co-*
ram Commissionar. Sewars, or *ad quod damnum*,
 shall passe without Warrant vnder the hand of
 the Lord Keeper or Lord Chancellour, being sig-
 ned by the one of them, Excepting onely such
 Writs of *ad quod Damnum*, as shall bee signed
 by his Maiesties Attourney Generall.

Writs of Priuiledge would bee reduced to a
 good and fitting rule, for number of persons
 priuiledged, and the case of Priuiledge.

The number would be set down by *Schedule*.

For the case, It is to be vnderstood, That be-
 sides the persons priuiledged as *Attendants* vp-
 on the Court; Suitors and Witnesses are onely
 to haue priuiledge *cundo, redeundo, & morando*;
 for their necessary attendance, and not other-
 wise. And that such Writs of priuiledge doe
 onely discharge an Arrest vpon the first Pro-
 cesse.

And yet where the partie is taken in execu-
 tion at time of necessarie attendance here requi-
 red, It is to bee taken as a Contempt to this
 Court, and accordingly to be punished.

No *Supplicauit* for the *Good behaviour* shall be
 granted, but vpon Articles grounded vpon Oath
 at least, or vpon a Certificate of any one Iustice

of Assize, or two Iustices of the Peace, with Oath that it is their hands; Or it may bee granted by order of the *Starre-chamber*, or *Chancerie*, or other of the Kings Courts.

No *Recognizance* of the good behaviour and the *Peace* taken in the countrey, and certified into the Petty bagge, shall bee fyled within the yeere, without speciall Warrant.

Writs of *Ne excat regna*, are properly to be granted, according to the suggestion of the Writ; In respect of Attempts, preiudiciall to the King and State: In which cases, the Lord *Keeper*, or Lord *Chancellor* will grant them, vpon the prayer of any of the Principall Secretaries, without cause shewing; Or vpon such Information as his Lordship shall thinke to bee of weight.

But otherwise also they may bee granted according to the ancient practice vsed in case of *Interlopers* in Trade, Great Bankerupts, in whose estate many Subiects are interessed; or in other cases that concerne multitudes of the Kings Subiects; As also in case of *Duels*, and some other cases.

All Writs, Certificates, and whatsoeuer other *Proces* returnable *Coram Rege in Cancellaria*, shall be brought into the Chapel of the Rolles, within couenient time after the Return thereof; And shall be there filed vpon their proper Files and bundles as they ought to be; and as the practice

&ice hath bin heretofore : Except only the Depositions of Witnesfes, which may remaine with any of the fixe Clerkes, by the space of one yeere next after the Cause in Court shall be either determined by Decree, or otherwise difmift.

All *Imunitions* with their Transcripts shall be likewise inrolled, as heretofore was vsed.

All dayes giuen by the Court to Sheriffes to returne their Writs, or to bring in their Prisoners vpon Writs of priuiledge, or otherwise betweene partie and partie vnpriviledged, shall be filed either in the *Registers* Office, or in the *Petty-bagge* respectiuelly :

And all Recognizances taken to the Kings vse, or vnto the Courtes, shall bee enrolled in conuenient time with the Clerke of the Inrollment ; And Callenders shall bee made of them, And the said Callenders shall be presented euery Michaelmas Terme to the Lord *Keeper* or Lord *Chancellor* beeing.

In case of Suites vpon the *Commission* for *Charitable vses* to auoid charge, there shall neede no Bill, but onely Exceptions vnto the *Decree*: And Answer is to be made forthwith thereunto and thereupon : And then vpon sight and perusall of the *Inquisition*, and the Decree brought vnto the Lord *Keeper* or Lord *Chancellor*, by the Clerke of the *Petty-bagge* ; His Lordship will giue order vnder his hand, for an absolute *Decree* to be drawne vp.

Vpon

Vpon suite for a *Commission of Sewers*, the names of those that are desired to be Commissioners, are to be presented to the Lord Keeper or Lord Chancellor in writing; And then his Lordship will send their names to some Priuie Counsaillor, or the Lieutenant of the County, or some Iustice of Assize, residing in those partes for which the Commission is prayed; To consider of them, That they be not put in for priuate ends: And vpon the returne of such opinion, his Lordship will giue farther order for the Commission to passe.

No new Commission for *Sewers* shall be granted while the first is in force, except it be vpon discouerie of abuse or fault in the first Commissioners, or otherwise vpon some great and weighty ground.

No Commission of *Banquerupts* shall be granted but vpon *Petition* made to the Lord Keeper or Lord Chancellor, and the names of those that are desired for Commissioners shall bee presented therewithall; Of which his Lordship will take consideration, and alwaies ioyne some persons learned in the Law, with the rest that shall be allowed; yet so as care bee taken, that the same persons allowed, bee not too often vsed in such Commissions, And likewise, that Bond be giuen with good Sureties, of the penaltie of two hundred pounds at least, to proue the partie against whom the Commission is serued forth,

foorth, to bee a Banquerupt.

No Commission of *Delegates* in any case of weight shall be awarded, but vpon *Petition* preferred to the Lord *Keeper* or Lord *Chancellor*, who will name the Commissioners himselve; to the end, that they may be persons of fitting qualitie, hauing regard to the weight of the Cause, and the dignitie of the Court from whence the *Appeale* is.

Any man shall be admitted to defend in *forma pauperis* vpon Oath:

But the Complainants are ordinarily to bee referred to the Court of *Requests*;

Or to the *Prouinciall* Counsailes, if the case arise in their Iurisdctions;

Or to some Gentlemen in the Countrey, except it be in some speciall cases of commiseration, Or *potencie* of the aduerse partie.

Suites after Iudgement, must be brought, according to his Maiesties Order beeing vpon *Record*.

Licences to collect for losses by Fire or by Water, are not to be granted but vpon good Certificate; And they are rarely to be renued; And they are euer to bee directed vnto the County where the losse did arise, if it were by Fire, and the Counties adioyning vnto it as the case shall require: And if it were by Sea, Then, vnto the County where the Port is from whence the Ship went, and to some Counties adioyning.

No Exemplification shall bee made of any Letters Patents *inter alia*, with omission of the generall words; Nor of Records made void or Cancelled; Nor of the *Decrees* of this Court not Inrolled; Nor of *Depositions* by parcells or fractions, omitting the residue of the said *Depositions*; Nor of *Depositions* in Court, to which the hand of the Examiner is not subscribed; Nor of Records of the Court not Inrolled nor fyled; Nor of Records of any other Court, before the same bee duely certified to this Court, and orderly fyled heere; Nor of any Record vpon sight and examination of any Copie in Paper, But vpon sight or examination of the Originall.

I will withall set down the very words, with which the Author concludes these last recited Orders; because you may accordingly giue them extent, dimension, and valuation.

The words are these, (viz.)

BEcause time and experience may discover some of these Rules to be inconuenient, And some other fit to be added hereunto; Therefore his Lordship intendeth in euery such case, from
time

time to time, to publish such *Reuocations* or *Additions*, as they shall offer themselves.

Howsoever I take it, there is not much alteration had in them; It may be there is some Addition: But for the *Rolles* side (as vnto the making of *Decrees*, and granting of *Iniunctions*) which was heretofore exercised alike there, as in Court, or on the *Lord Keepers* side (which I conceiue grew by the connexing of the *Lord Keepers* Office, and Master of the *Rolles* in the same person) I can not say how the case stands at this present, hauing withdrawne my selfe now these seuen yeres past, frō any practice in the Lawes in any kinde.

And because the Confirmation of Ordinances and by-Lawes, made for the better government of Societies Incorporate, doe for the most part passe through the hands of the Lord Keeper, or Lord Chancellor for the time being, according to the Statute of the nineteenth of K. Henry 7. Therefore, and for that it is onely the path of a very few travelling in the Lawes; I thinke good to write according to mine owne practice therein (as followeth.)

IF a Corporation bee newly erected, and is to haue also Ordinances *de nouo*, made for the better

better gouernment of their Company, or Body: They must first make a perfect draught of them by aduice of Counsaile in a Paper-booke.

Your Counsaile would be both learned in the Lawes of the Land, the Prerogatiue of the King, the Subiects rights, And the Priuiledges, Powers and Customes of the great body of the Citie, or Towne corporate, wherein you are sub-incorporated as Brethren of a Trade, Mysterie, or Occupation.

For any Ordinances made either against the Lawes of the Land, or the Prerogatiue, are not onely void in themselues, but farther punishable in those who execute them, notwithstanding any confirmation whatsoever. And therefore commonly in all Patents, and Charters of Incorporation, there is a speciall Clause of *promiso* in this point, and to this purpose.

And I doe herein indigite at two manner of Ordinances, vnder which the Commonalties of Corporation doe much grone and complaine their pressures.

The one is a Presumption and intrusion vpon the Birth-right of a free-borne Subiect (*viz.*) the Imprisonment of their bodies, for breach of an Ordinance of their company (a thing most vnlawfull, and vnreasonable, and yet too frequently practized by too many of them.) For colour whereof, I haue seene a Warrant *Dormant* lying in the Halls of some Companies, vnder

vnder which they subscribe the names of whom they list to commit ; And then deliuer him to an Officer, who attends them at their Court for the purpose ; And so it is not pretended to bee their owne act, but the will and commandement of a greater Magistrate :

Or an Intrusion vpon the Subiects Birth-right, by denying him to seeke Law and Iustice before the King the Fountaine of Iustice, in his Court at *Westminster* :

Or to set vp and vse his Trade, after hee hath arriued at his Freedome by honest seruice, according to the Lawes of the Land, and the ancient custome of the place :

Or to take a house for his best conuenience, aduantage, and accommodation of his Trade :

Or the like.

The other Agreeuance which I point at , is a Consumption and effusion of the purse and estate of the Subiect, by grieuous Fines, Amercyments, and Impositions, and by laying of Offices vpon them, which draw great expence, in Feasting and profusenesse; of which I shall take occasion in a more fitting place , to speake and write at more libertie.

I proceed with my Direction in the passing of any such Ordinances.

The Paper-booke beeing perfected by such able Counsaile, you are to draw your Petition in the names of the Master & Wardens, in name,

and in the behalfe of the whole Company, to bee directed and deliuered with the said Booke to the Lord *Keeper* or Lord *Chancellor*, desiring; Whereas it hath pleased his Maiesty so to Incorporate you, and to giue you power to make Orders and Constitutions for your better gouernment: which Orders are by the Statute of the nineteenth of King *Henry 7.* to be perused, examined and allowed, by the Lord *Keeper*, Lord *Treasurer*, and the two Lords chiefe Iustices of either Bench, or three of them at least, which prouision you are ready to obserue & performe on your parts.

It may therefore please his Lordship to giue order to the two Lords chiefe Iustices, to peruse, examine, and make the same fit and worthy the confirmation and allowance of his Lordship, and themselues, &c.

Herevpon, his Lordship giues order vnder your Petition; That the two Lords chiefe Iustices do accordingly peruse, examine and make them fit, as is desired.

They the said Lords chiefe Iustices doe by vertue of that Order and Warrant peruse the same; and after they haue so altered, added, or subtracted, as they shall thinke fit:

Then their Lordships giue order to one of their owne Clerkes, to write them ouer faire againe into a Paper booke cobby-wise. Which when they haue exactly examined with the former

mer so by them reformed, They subscribe the same, and send them sealed vp backe againe to the Lord *Keeper*: Who vpon the opening thereof, and sight of the approbation of the Lords chiefe Iustices, doth likewise giue order in writing, at the Foote of the said Booke subscribed with his hand, That the same be forthwith faithfully ingrossed in Parchment (and in the *Chancerie* hand) by such an one as it shal please the two Lords chiefe Iustices to appoint therevnto; And that they giue him testimonie of the due performance thereof, by the confirmation of the same vnder their seuerall hands and Seales: And so the Lord *Keeper* seales the Booke vp againe, and returnes it to the Lords chiefe Iustices, who giue direction for the engrossment, according to the order aforesaid.

And when the same is so engrossed, and examined with the Paper booke, They set their seuerall hands and Seales thereunto, and deliuer it to your selues, to carry to my Lord *Keeper*: Vpon sight whereof, hee vseth also to Seale and subscribe the same.

But I pitie the case very much, that there is no Inrollment, Record, or Register of any such Ordinances kept in any place, the rather for so many thousands of people are gouerned by them, beeing a Law to which they can haue no recourse, nor can consequently take the true measure, by which they should fashion their
man.

manners, to fit smoothly to the body of their Ordinance.

It is not the reading of them once in a yeere in parcels and cursorily, can take impression in the most learned of them (if there be any such) much lesse in the generall sort.

I hope that succeeding times will looke into this Euill, euen in the greatest bodies incorporate, and giue it a fitting redresse.

And so much shall suffice for such Ordinances.

*I now returne to my other scattered pieces
which I haue gathered together, and
fasciculated into the little
bundle following.*

Instruction how to sue a Recognizance taken in Chancerie.

IF you would sue a *Recognizance* that is taken here,

When it is forfeited, you are to bring a Copie of the same to one of the Clerkes of the *Petty-Bagge*; And he will therevpon make you two Writs of *Scire facias*: The one of a *Returne*

turne past (if you will :) And the other of a *Returne* to come. These you must deliuer to the Sheriffe of *Middlesex*, who will returne them, as the Law requireth him to doe in this case.

And when they are returned, you are to carry them againe to the *Petty-Bagge*;

And to reteine one of the Clerkes there to be your Attourney herein ;

And then giue the Defendant a day to appeare: which if hee doe not accordingly ; A Iudgement is to bee awarded against him for his said default :

And if hee doe appeare by the day to him so giuen ; Then are you the Plaintiffe to *Declare* against him the Defendant, And he is to answer and plead to you here, as is vsed in other Courts of Common Law.

And when you are at full issue vpon the *Venire facias*, you are to haue your Witnesses; And this is the vtmost extent of the proceeding here in *Chancerie*:

For then if you will goe to Tryall, you must haue the whole proceeding heere written into Parchment ; and it must either be sent by the Officer of the *Petty-Bagge*, sealed vp to bee tryed in the *Kings Bench*, or *Common-pleas* (at your election) or else it may bee deliuered ouer vn-sealed, by the Lord *Keeper* or Lord *Chancellour*; which is agreeable with the words, *se propria manu, &c.*

K

Where

Where note, that there can be no Tryall by Jury here in *Chancerie*.

Instruction how to sue a Statute Staple forfeited here.

IF you will sue a *Statute Staple* here ; You must first goe to the Clerke of the *Staple*, and shew him the date of your *Statute* when it was acknowledged, which may also appeare by the *Statute* it selfe:

And then he must make your *Certificate* therevpon, and scale it vp.

Then are you to goe with it to the Clerke of the *Crowne*, and to get him to make the *Exigent* therein.

You must deliuer to the Clerke of the *Crowne* your *Certificate* ; You must then haue your *Obligation* made ; And your *Extent* to be made and endorsed on the backside, as is vsed in such cases. This endorsement of the *Extent*, is called the *Fine* of the *Extent*, which must be deliuered vnto the Sheriffe ; who by vertue thereof is to impannell a Jury, to enquire, extend, and apprehend as well the Body, as the Lands, Goods, and Chattels of the partie so bounden.

And when they be so extended into the Kings hands ; The Sheriffe may keepe them vntill you bring him a *Deliberate*, which you are to haue

haue from one of the Clerkes of the *Petty-Bagge*.

Note also, that it concernes you to take good heed how you sue out this *Deliberate*. For if there bee sufficient estate or goods extended, wherewith to satisfie your *Statute*; And you sue your *Deliberate* of these Lands and Goods, &c. extended; you shall neuer haue more then was so first extended, and deliuered.

Wherefore if you doe vnderstand or can conceiue that there bee more Lands or Goods extendible in any other place else-where, you are to get them likewise to bee extended; And then when you haue sufficient, to sue out your *Deliberate*; Then you are to deliuer vp your *Statute*, before you haue your said Writ; because otherwise the Clerke of the *Petty-bagge* will make you no *Deliberate* at all.

The way how to sue forth a Writ of Supplicauit, whereby the party sued shall not bee releas'd till the party griued please.

First, you must take your corporall Oath before a Master of the *Chancerie*, that you doe not desire it for any Malice, Hatred, or Enuy to the partie; but for your owne quietnesse, and safetie; Wherevpon you shall haue a Warrant to leade your said *Supplicauit*; And therevpon consequently the Writ it selte, so soone as the same may be written and sealed.

After you haue the same granted, you may sue out of the *Chancerie* a Writ of *Certiorare*, which you should vse in this manner, *viz.* When you haue deliuered your *Supplicauit* to haue a Warrant therevpon for the arresting of the person sued, and haue got him likewise arrested, you must keepe your *Certiorare* very secret and vnknowne vnto him, till hee haue put in Bond or Recognizance therevpon, with Sureties (as the case requires:)

For if hee take notice of it; Then hee will lye in Prison vntill hee haue procured a *Superseas*.

sedes vnto your *Supplicauit*; which if hee doe, your *Certiorare* is of no force or vse. Wherefore it concernes you to haue care herein :

And when the partie is Arrested; And hath put in Sureties, to the Sheriffe or Iustice, who granted the Warrant vpon the Writ; And the partie hath giuen Bond with Sureties; Then doe you deliuer your said *Certiorare* vnto them that tooke the Bond, And therevpon they are tyed to certifie the same vp accordingly.

So consequently shall he stand bounden in such manner, vntill you please of your owne accord to release him.

This hath beene a practice very frequent heretofore, And yet it appeareth by an especial order made of purpose to obuiate this course, which Order I haue before recited in these collections. There was both care and prouision taken, for redresse and reformation, in this particular case.

Instructions how to sue forth a Supersedeas vpon the former Writ of Supplicauit, or the like Writ.

FOr that it cannot be knowne but by search and expence to the party against whom the Writ for *Peace* or good *behaviour* is sued forth, In what Court the same is so sued,

untill he be arrested for the most part ; whether it bee out of the *Chancerie*, or the *Kings Bench* : wherefore to auoid that euill of beeing bound, Hee may sue forth and haue his *Supersedeas* euer in readinesse about him, if hee suspect any such practice be intended against him (as aforesaid.)

The *Supersedeas* must be sued forth thus, (*viz.*)

You shall rather in the *Chancery*, then on the *Kings Bench* side, enter into Bond with Sureties *gratis*, with condition that you shall keepe the Kings peace, or bee of the good behaiour, during such time as for which you shall so binde your selfe, and as the occasion shall require : For if you suspect that your Aduersarie will haue the Writ only to binde you to the Peace, then a *Supersedeas* will serue onely for the Peace ; if for the good behairur, then your *Supersedeas* must bee for the good behaiour ; if both, for both.

When you haue so bound your selfe with Sureties ; Or Sureties in your absence haue so vndertaken (as your *Manucaptors*) for you before a Master of the *Chancery* ; You may haue Warrant, And vpon the Warrant, your Writ of *Supersedeas*, so soone as the same may be written & sealed :

And for your better ease, and direction in any of these cases of suing foorth a *Supplicavit* or *Supersedeas* ; enquire for, and addresse your selfe to the proper Clerke of the *Supplicavit* Office ; which is euer kept, in or neere vnto *Chancerie*

Lane,

Lane, and at this instant, at the *Rayne-bowe* neere to the Inner Temple gate.

I doe aduise you to sue forth your *Supersedeas*, rather out of the *Chancerie* then the *Kings Bench*, for these reasons, (*viz.*)

The condition of your Bond in *Chancerie* doth not tye you to make any appearance at the determination of your time limited for Peace or behaviour; But in the *Kings Bench* it doth:

And if you doe not appeare there accordingly, your Bond is duely estreated; and now more strictly prosecuted then euer heretofore:

Besides, if you doe appeare according to the condition of your Bond, there is then a great charge which falls vpon you of course; for the withdrawing of your Bond, which dyes in *Chancerie*; or at least, it requires no retraction there:

Besides, the *Supersedeas* is in some case more potent, being taken out of the *Chancerie*, than out of the *Kings Bench*: For notwithstanding the Writ to binde, be taken out of the *Chancerie*, and beare *Test* before, yet the *Supersedeas* out of the *Chancerie*, is sufficient against it howsoever: But I make question whether the *Supersedeas* of the *Kings Bench*, will ouer-rule the *Supplicauit* of the *Chancerie* bearing date before it, or no? I am perswaded (and as I remember) I haue met the experience of the priuiledge of *Prioritie* in the *Chancerie* Writ, in this Kinde:

Neuer-

Neuerthelesse I leaue it to the farther consideration of him that desires to buy a farther experience with farther expence herein.

Note also that you may haue your *Supersedeas* to supersede one, or more, or all persons whatsoever at your owne election.

And so much for Writs of Peace and Behaviour.

FOR the Amplitude of this Court, you shall note, that it extendeth it selfe into a larger dimension then *Smiths Common Wealth* does demonstrate, both in limnes and liuelihood; especially in those two members of it, (*viz.*) the *Petty-Bagge* and *Cursitorie*; in both which, that Booke doth scant it ouermuch:

For besides Offices *post mortem*, which it only attributes to the *Petty-Bag*: This Office hath

The making out of all Writs of *Summons* to the Parliament:

All Latine Pleadings of the *Chancerie*, concerning The Question of any Patent or other thing whatsoever which passeth the great Seale:

Or whatsoever priuate Deede betweene Subjects, which is acknowledged in *Chancerie*, before the Lord *Keeper*, the Master of the Rolles, or any the Masters of *Chancerie*:

With Statutes and *Recognizances* taken in this Court:

Or transmitted hither:

With

With all suites for, or against any person privileged in the *Chancerie*.

Besides, it is a hand whereby to transmit divers things from the *Riding* Clerke and the Inrollment Office, to the Chapell of the Rolles.

And briefly, it hath such variety of busines, that the place requires more learning and abilitie of Clerkshippe then any other Office, save that of *Prothonotaries* of the *Common Pleas* only, (in my opinion.)

And for the *Cursitors* of the *Chancery*, They make both the originall Writs of the *Chancerie*, and of the *Common Pleas*: The Originalls of which Court of *Common Pleas*, I referre to the proper place, where I shall have more occasion to speake of them hereafter.

These *Cursitors* were incorporated by *Queene Elizabeth*, by the name of The foure and twenty *Cursitors*: amongst whom, the busines of the severall Shires is severally distributed; And therefore you must, in all cases where your Suite is local and tyed to the certaine County, adresse your selfe to the proper *Cursitor* of the same.

If any Suite depend before any Sheriffe in his Tourne or County Court, you may have a Writ of *Chancerie* from the *Cursitor* of that County, called a *Recordare*, to remoue it.

If it lye in a Court Baron, your *Cursitor* will call it away with an *Accedas ad Curiam*:

If it lye in a Towne Corporate, hee will re-

L

moue

move it with a *Certiorare* returnable in *Chancerie* (as aforesaid,) which may be made of course, without any Bill exhibited:

And a *Procedendo* may be also made presently thereupon, before the returne of the said *Certiorare*, and that of course likewise:

And also a second *Certiorare* and a second *Procedendo* thereupon may be made; But the second *Procedendo* should be vpon a Bill exhibited, shewing good cause of equitie why the Complainant should be relieved:

And vpon Bond giuen by the Complainant or some other for him, with condition that the Complainant shall proue the Contents of the said Bill; The Court of *Chancerie* doth often grant a *speciall Certiorare*, signed with the hand either of the Lord *Keeper* or of the Master of the Rolles for the time being:

And the Condition of this last recited Bond, giues the Obligor only the libertie of fourteene dayes to proue the Contents of the Bill: which 14. dayes must commence from the date of the returne of the said *Certiorare* to be granted (as aforesaid.)

The Fees of proceeding in Chan-
cerie follow.

	l.	s.	d.	
S <i>Sub pana</i> Writ to answer	0	2	6	<i>Sub pana</i>
If there bee three in the <i>Sub</i>				<i>pro 2.</i>
<i>pana</i> , you pay sixe pence the	tot. 0	3	0	<i>pro 3.</i>
more.				

This *Sub pana* may bee serued in any libertie
whatsoever; So cannot an Attachment.

The charge of drawing your
Bill is the next which your coun-
saile at Law, must doe according
to the Instruction which you shal
giue him of the true estate of the
cause. His Fee is at the least

Counsaile.

For the engrossing of your said
Bill foure pence a sheet at the least.

The Copie *inde*, two pence a
sheete at the least.

The Attourneyes Fee when
you put it in, which is for the
whole Terme,

The writing of the Oath made
that the *Sub pana* was serued,

The Oath,

The Attachment where the
Defendant appeareth not,

L 2

The

l. s. d.

For engrossing of this Answer, }
 at foure pence the sheete at the } o-foure pence
 least, _____ } a sheete.

For Copy of this Answer, at } o- two pence
 two pence the sheete at the least. } a sheete.

For the Oath made that this An- }
 swere is true. _____ } o — o — 4

For euey Defen- } _____ } o — o — 4
 dant 4.d. *pro consimil.* } *quilibet Def. pro consimil.*

For the Commission to take the- }
 Answer in the Country by *Dedi-* } o — 7 — 10
mus potestatem, _____ }

Besides the engrossing of the } *euey sheete.*
 Bill which is included within it, } *inde,* — 6 d.

The *Sub pana* for Costs, giuen }
 to the Defendant, in case where } o — 2 — 6
 the Complainant doth not put in }
 his Bill within the time allowed, }

For a Bill of Costs, and entery }
 of it *inde,* _____ } o — 1 — 4

The *Attachment, Proclamati-* } *as in case a-*
on, and *Commission of Rebellion,* — } *fore said.*

A Ioint *Commission* to examine } *in approd*
 Witnesses in the Countrey, *per* } o — 7 — 10
peece _____ }

A *Commission ex parte,* to } *The partie beares*
 examine Witnesses in the } *both parts of the*
 Countrey, _____ } *charge*

	l.	s.	d.
For examination of the first Witnesse heere before the Exa- miners, —————	0	2	6
For euery Witnesse examined afterwards, —————	0	2	6
For drawing of the <i>Replication</i> , if it bee done by Counsaile, as in case for the Bill. —————	} <i>as for the Bill</i>		
For the <i>Reioynder</i> , —————	0	} <i>the like.</i>	
If there bee no new matter in the <i>Replication</i> or the <i>Reioynder</i> , your Attourneies Clerke will drawe them for you of course, for some small matter, —————	} <i>as you can a- gree.</i>		
For the Copies of the Deposi- tions of any Witnessses returned by Commission, —————	0	0	8
For Copie of Depositions ta- ken heere, —————	0	1	0
For a Motion in Court, ———	} <i>Counsailes Fee.</i>		
For the drawing of the Order therevpon <i>cum Cop.</i> —————	0	3	0
For entering of the Order, ———	} <i>euery side — 6.d.</i>		

Fees

Fees of an Injunction follow.

	l.	s.	d.
Injunction in all <i>vjs &</i> } <i>modis.</i>	1	2	6

Fees of a Decree follow.

For a Decree the drawing, } Sec. _____ } as in case of an Order.			
Sub pœna to Testific. _____	0	2	6
Sub pœna to Reioyne, _____	0	2	6
Sub pœna to Heare Iudgement. _____	0	2	6
For getting the Hearing } to be set downe. _____ } as you can agree with your Attourney.	0	-	-
For the Rules to publish } the Witnesses, being foure } - per piece	0	-	4
For Copy of Replication, } Reioynder, Rebutter, and } as aforesaid for Bill Surrebutter, as for Copie of } and Answer.	0	-	-
Bill or Answer: _____	0	-	-
Sub pœna super ordinem, to shew } cause, _____ } 0-7-2	0	7	2
Sub pœna of Ducas tecum. _____	0	7	2
Sub pœna de executione ordinis --	0	10	0 at least.

The

The charge of a Supplicavit in
Chancerie.

	l.	s.	d.
Item, the Oath. —————	0	0	4
Item, The Supplicavit it selfe. ———	0	5	6
Item, The Warrant vpon it, <i>vic.</i> ———	0	2	0
Item, For the <i>Certiorare</i> to certifie the Bond taken vpon it. —————	0	2	6

Charge of a Superfedeas in
Chancerie.

TO the Master of the <i>Chancerie</i> } for taking of his Bayle. ———	0	2	0
For the Warrant —————	0	2	0
For the Writ. —————	0	5	6
For the Allowance of it. ———	0	2	0

These said Fees be onely of the case of a single person; And for the Peace only:

But if it be of more persons, or for behauiour as well as the Peace: then the charge is accordingly enlarged.

The Fees of all originall Writs
sealed in the Chancerie.

A.

	l.	s.	d.
A ccedas ad curiam. —————	0	2	7
Ad mensuratio pastura. —————	0	5	7
Ad quod Damnum. —————	0	7	2
Annual. Reddit. —————	0	1	6
Assis. Cuiusq; general. —————	0	5	6
Attinct. —————	0	7	2
Audita querela. —————	0	7	2

C.

C ertiorare. —————	0	2	6
Cessavit. —————	0	2	6
Conspiracie. —————	0	5	6
Contentione. —————	0	2	6
Coranator. eligend. —————	0	7	2
Cui in vita. —————	0	2	6
Cur Claudend. —————	0	2	6
Comperuit. —————	0	2	6
Sum. bre. de Couenant. —————	0	2	6

D.

	l.	s.	d.
D ilem clausit extremum. _____	0	2	6
Dedimus potestatem super bre. de } _____	0	2	6
Con. Dot. _____			
Speciall Dedimus potestatem. _____	0	7	2
Originall de Debt & detinem. _____	0	1	0

E.

E lectione firme. _____	0	2	6
Eiectione Custod. _____	0	2	6
Excommunicat. Capiend. _____	0	7	2
Execut. in De. _____	0	2	6
Expenc. nullas. _____	0	7	2
Error in London. _____	0	7	2
Patent inde. _____	0	7	2
Elegit. _____	0	10	0

F.

F also Iudicio. _____	0	2	6
For. fac. Maritag. _____	0	2	6
Forma Donationis. _____	0	2	6

H.

H ered. Capt. _____	0	2	6
Con. Repleg. _____	0	5	6

Leproso.

L.

	l.	s.	d.
L Eprofo. amouendo. _____	0	5	6
Libertat. proband. _____	0	5	6
Libertat. allocand. _____	0	7	2

M.

M Oderat. _____	0	2	6
Maintenand. _____	0	2	6
Minus. _____	0	2	6
Monſtrauerunt. _____	0	5	6
Mittimus _____	0	2	6
Mandamus. _____	0	7	2

N.

N Ocunt. _____	0	2	6
Non moleſtand. _____	0	2	6
Non Omittas. _____	0	5	6
Non Ponend. in Aſſiſe. _____	0	7	2

O.

O Fficiar. non faciend. _____	0	5	6
Ordinar. non ſeruiend. _____	0	2	6

P.

P Act. fract. _____	0	2	6
Partic. faciend. _____	0	2	6
Paten. bre. de errore corrigend. in } _____	0	7	2
Aſſis: attinct. _____	0	7	2

M 2.

Pleg.

	l.	s.	d.
<i>Pleg. acquietand.</i> —————	0	2	6
<i>Pone.</i> —————	0	2	6
<i>Perambulac. faciend.</i> —————	0	5	6
<i>Palibus. reparand.</i> —————	0	2	6
<i>Post desseisin.</i> —————	0	2	6
<i>Præcipe in Cur.</i> —————	0	2	6
<i>Procedend.</i> —————	0	2	6
<i>Prohibition.</i> —————	0	7	2
<i>Proprietat. proband.</i> —————	0	2	6

R.

R <i>Ecce claus.</i> —————	0	2	6
<i>Ecce patent.</i> —————	0	2	6
<i>Redisseisin.</i> —————	0	7	2
<i>Reparatio Pontium viarum domini.</i> —	0	2	6
<i>Repleg. Original.</i> —————	0	1	6
<i>Rescous.</i> —————	0	2	6
<i>Recordare.</i> —————	0	2	6

S. T. V.

S <i>Ignificavit.</i> —————	0	7	2
<i>Bre. de estat.</i> —————	0	2	6
<i>Sub pœna.</i> —————	0	2	6
<i>Supersed. inde.</i> —————	0	7	2
<i>Supersed. pro pace.</i> —————	0	5	6
<i>Supersed. omn. al.</i> —————	0	5	6
<i>Transf.</i> —————	0	1	0

Transf.

	l.	s.	d.
<i>Trans. super casum.</i> _____	0	2	6
<i>Valore Maritagij.</i> _____	0	2	6
<i>Vasc.</i> _____	0	2	6
<i>Villat. remouend.</i> _____	0	2	2
<i>Vitar. eligend.</i> _____	0	7	2

W.

W arrantia charta. _____	0	2	6
Warrantia Diei. _____	0	5	6
Withernam. _____	0	5	6

And so much for the originall Writs issuing out of *Chancerie*.

I Must acknowledge that I haue omitted the *Records* enrolled in the Chappell, and those that are either in the hand of the *Controller* of the *Seale* and riding Clerke, or else in the middle of their iourney, traueiling ouer to the Chappell; because they are an homogeneall part of my former *Traçtate*, touching direction for *Search of Record*, which I shall (by Gods assistance) both perfect and amplifie with my best and first opportunitie hereafter. As I haue also omitted a small Collation which I haue made out of the *Petty-Bagge* and other places, of the feuerall Stiles of all Townes Corporate in *England* and *Wales*, according to their feuerall Patents of Incorporation, with the Stiles of all

other Ministers of any Courts, to the which any Attourney may haue occasion to direct his Writs of *Hebeas Corpus*, and the like in any occasion; Because this last will be a Booke of such continuall vse vnto them, That it is onely fit to be published by it selfe in such a small Volume, as may be portable in euery pocket. Therefore I doe likewise intend to set it foorth as a little Cock-boat, to this greater Vessell, very speedily, it being already finished.

*And thus I conclude with the Court of Chancerie,
Reseruing the Fines payable vpon originall
Writs, to the practice of the Court of Common
Pleas, because they best know the price of
them.*

THE



THE
C O U R T
 OF REQUESTS:

OR,

White-Hall at Westminster.



This is likewise a Court of
 Conscience and Equitie.

And the practice there-
 of is by English Bill, An-
 swere, Replication, and
 Reioynder like to the

former of the *Chancerie*.

The forme of their proceeding is gene-
 rally alike.

Only, This Court, in stead of the leading
 Writ of *Sub pœna*, useth a *Privy Seale*.

Or

106 *The Court of Requests.*

Or otherwise to summon such as are neerer hand, by their Messenger and proper Officer of the Court.

Their Fees in the point of proceeding, are for the most part alike:

Onely in stead of two shillings six pence for Summons by *Sub pœna*, you pay at the least for Summons by *Privy Seale*,

8.s.

Or if the Summons bee made by the Messenger here in towne, you pay to him for his paines,

3.s. 4.d.

For euery party summoned --- the like.

Besides for his Warrant to do it, } *ad libitū*
what you please as I take it.

This great burden at the very entrance into a Suite here, does much hinder the Court, if they would duely consider it.

And so much for the Court of
Requests.

THE



THE
C O U R T
 OF
 THE PROVINCIAL
 COUNSELL OF THE
 Marches of WALES.



*His Court of the Provincial
 Counsell for the Marches of
 Wales holds the like forme of
 proceeding generally and for
 the most part, as doth the
 Chancerie before mentioned.*

*The greatest difference is in the Leading
 Proesse of the same.*

*And therefore I shall not need to recite
 the same thing againe, but proceed so*

N

THE



THE
C O U R T O F
 THE PROVINCIALL

Counsell, established at
 Y O R K E.

THis Prouinciall Counsell follows the course of proceeding likewise vsed in *Chancerie*.

And for your better direction, that you may vnderstand the Lords Presidents Powers and Priuiledges, in either of the two Prouinciall places, I referre you to their Instructions remaining on Record in the *Chancerie*, whereby you may be fully satisfied in this point, &c.

The greatest difference here likewise is in the Leading Processe.

And both the Prouinciall Counsels are often subiect to the Prohibitions of the Courts at *Westminster*, which makes many of both Iurisdiccions choose rather to begin their Suites here, then at their owne home.



THE
 COURTS OF THE
 County Pallatine of *Chester* ;
 County Pallatine of *Lancaster* ; County
 Pallatine of *Duresme* ;
 AND
The Chancerie of London ;
 the Exchequer Chamber
 Westm.

IN the formalitie of their proceeding doe all imitate the practice of the Chancerie, before set forth and declared, admitting onely some small mixture of the Common Law in some especiall cases.

And in some things they are led by their proper customes and prescriptions respectively :

So that hee who is a sufficient practitioner in our great Chancerie, may bee able and worthy the admission into any Court of English proceeding whatsoever, or wheresoeuer.

I make the next gradation to Courts of Common Law ; And both for mine owne ease, and the

92 The 3: Courts Pallatine.

benefit of the Reader, I will beginne at the Court of
Common Pleas, as the onely Leader to all other
Courts, for all kinde of matters appertaining to the
Common Law; Otherwise, if I did beginne with
the Kings Bench, for the prioritie and dignitie
thereof, I should runne into this inconuenience, that
I must bee forced to repeate the same thing ouer
again in personall actions, and mixt acti-
ons; both which the Kings Bench
admitteth and holdeth,

&c.



THE
COMMON-PLEAS
PRACTICE.



FIRST you are to vnderstand
of what nature the Action
which you would sue must be.

If it be for Debt vpon a Bond,
you must take a special care that
your Originall doe agree with
the Bond; For otherwise your proceeding will
be erroneous.

And you must make them agree thus: (*viz.*)

London: *Precipe Rico. Scot. nuper de London
generos. (alias Dict.)* As in the Bond *literatim*;
and in the same words and Letters as the party
sued is stiled and titled in the Bond. *Re. Thom.
Smith* twenty pound, &c.

If it be in an Action of Trespasse, Or an Action
vpon the Case; Then you must style and Title
the Defendant whom you sue thus: (*viz.*)

London: *Si Thomas Smith, Fec. &c. Tunc
pone, &c. Ricard. Scot. in London generos. ostens-*

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quare cum, &c. without any *alias* at all required, to be in such Actions.

When you haue made this Note of Direction, for the drawing vp of your Originall and leading Writ, you must deliuer it to the *Chancerie* man, which is the *Cursitor* for the Shire where you lay the Action, to make this your Originall Writ, and to get the same sealed.

This Originall being so made, sealed and deliuered vnto you, your selfe may returne; except the Defendant whom you sue bee a Freeholder of the Shire, where you lay your Action.

If the Defendant be a Free-holder in the Shire where the action is laid: Then you must deliuer your Originall to the Sheriffe of the Shire to returne it.

If the Sheriffe do returne the Defendant sufficient: Then soon after the said Returne, when the Originall is fyled: The Plaintifs Attourney must goe to the Office of the *Phillozer* of the said County; And there search and be satisfied whether any Attourney haue appeared for the Defendant or no?

If the Plaintiffes Attourney doe finde that the Defendant appeareth: The Plaintiffes Attourney (if he can) or otherwise some one Clerke of the *Prothonotaries* Office whom he may procure, must draw vp his *Declaration* against the Defendant, for which purpose the said Clerke must haue the Bond; and take out the Writ into the

the *Prothonotaries* Remembrance, and also must know where the Plaintiffes Attourney will haue the Obligation to be laid for the *Reinde*.

When the Declaration is deliuer to the Defendants Attourney : The Attourney or Clerke for the Plaintiffe, is vpon demaund to shew to him the Obligation it selfe, to the end that hee may examine the Declaration with the same, and see and take notice of the Wittnesses names who doe testifie it.

In like manner are you to proceed in an Action of Debt vpon an Indenture, or Debt due by Testament, or Letters of Administration; you must vpon the Declaration and demand made, shew the Indenture, the Testament, or Letters of Administration as the case is, that they may be conferred together.

And in an action of Debt vpon an Indenture, the Originall must bee made to agree with the Indenture, as in case of an action of Debt vpon Bond, in the second addition, or the *alias dist: vt supra*.

The Attourney of the Defendant may, when the appearance is made for his Clyent, haue Costs, and dismisse the Plaintiffe, if hee doe not declare within his time prefixed.

When the Defendant hath appeared, And the Plaintiffe hath declared, And therevpon the Defendant hath answered, or pleaded, Hee may giue to the Plaintiffe a day to Reply:
Which

Which if the Plaintiffe doe not accordingly ;
Then the Defendants Attourney may discon-
tinue the Action of the Plaintiffe , and make
him to begin anew :

And if the Defendant bee returned sufficient,
And no Attourney appeareth for him vpon the
Originall : Then the Plaintiffes Attourney must
put his name to the *Phillozers* booke, called the
Remembrance , where the *Originall* shall be ta-
ken out : And marke the same *Remembrance*,
when his next Processe which is a *Pone* shall be
returnable.

This next Processe he must seale and deliuer
to the Sheriffe.

And if at the day of the Returne thereof ; no
Attourney doe yet appeare for the Defendant :
Then the Plaintiffs Attourney must in like man-
ner marke the Remembrance , and take out an-
other Writ against him called a *Distresse*, and so
the Plaintiffe may sue out *Distresse* after *Distresse*,
vntill such time as the Defendant doth appeare.

And if the Sheriffe shall returne such small
issues for fauour, as whereby the Defendant is
encouraged to stand out , and will not appeare:
Then the Plaintiffes Attourney himselfe may
moue the Court for increase of *issues* , or else
Amerce the Sheriffe.

If the Defendant haue no Free-hold with-
in the Shire where hee is sued : The Plain-
tiffes Attourney must returne the Originall
Writ

Writ in Debt or Trespasse on the back-side
thus: (*viz.*)

Pleg. de prosequend.

I. Doo.

Ric. Roo.

Infra nominat *Richardus Scot*, Nihil
habet in balliua mea vnde potest
Summ.

Iohannes Smith, *miles vic.*

IF the Originall bee in Trespasse vpon the
Case, Returne it (as aboue) sauing in stead
of *vnde potest Summ.* let it bee *vnde potest*
Attach

The Returne of the ordinarie Proesse of
Capias to the *Exigent*, is, *Infra nominatus Ri-*
chardus Scot, *non est inuentus in balliua*
mea.

There must bee alwayes betweene the
Teste of the Originall, and the Returne
thereof, full fifteene dayes *inclusiue*, at the
least.

And so of the *Cap. alias Cap. and plur.*
Cap.

And betweene the *Teste* and the Returne of
euery *Exigent*, there must be five County Court
dayes, or five dayes of the Hustings, as is vsuall
in this kinde of businesse.

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The *Exigent* and *Proclamation* must both be of the same *Teste* and of the same *Returne*.

An *Exigent* in the Countrey hath five County dayes for his *Returne*, (the County Court being kept only once in a Moneth) And so consequently it requireth five Moneths :

But in the *Hustings* in London, the *Returne* is much speedyer.

And if the Defendant doe not appeare by *Superfedeas* before the fifth County day, or day of *Hustings* (as the *Exigent* lyeth) then he is, vpon the fifth *Exact*. returned vtlawed.

You must haue a care withall, that vpon the *Returne* of the *Plur. Cap.* precedent, it bee duely fyled.

At the going forth of the *Exigent*, you must make your *Warrant of Attourney* on this manner, (*viz*) *Willielmus Wild generosus, Pl. polo suo: I. T. vers. Ioh. Fludd de Braynford in Com. prad. Yeom. de plac. debit. or de plac. transs.* as the *Action* is: This you must deliuer to the *Clerke* of the *Warrants*.

The Defendants *Attourney* is to put in his *Warrant of Attourney* vpon the *Issue* or vpon the *Demurrer*, and not before.

If the *Sheriffe* haue the *Capias, alias Cap.* and *Plur. Cap.* deliuered vnto him, And shal returne a *Cepi Corpus* vpon any of them; then the *Plaintiffe* shall haue no farther *Proces* against the *Defendant*.

If vpon any such Returne no Appearance shal be made on the Defendats part, Then the Plaintiffes Attourney must goe to the *Phillozers* or the *Prothonotaries*, and get the same Writ or the Returne thereof taken out; And then giue to the Sheriffe Day to bring in the body of the Defendant, or else to be amerced at the discretion of the Iudges.

And if the Sheriffe doe not bring in his prisoner by the day giuen, Then the Plaintiffs Attourney is to get the Amerciament to be *Estreated*; And to sue out a Writ of *Habeas Corpus* to bring in the body of the prisoner.

And if the Sheriffe who did so arrest the Defendant, bee out of his Office before hee doe returne your said *Habeas Corpus*, And the Defendant appeareth not yet; Then you are to sue forth *Distringas nuper vic.*

The *Phillozer* vpon making out of the first *Capias*, enters into the Rolle an *Apposen*, So that it may appeare vpon Record: which *Apposen* the Plaintiffe may continue for a Terme, two, or moreif hee please.

And their Common Proesse must haue at the least fifeteene dayes betweene their *Teste* and Returne.

If Proces remaine vncontinued by diuers Termes, and no exceptions be made thereof by the Defendant; The same may bee continued by the Plaintiffs Attourney, paying to the *Phil-*

lozer or his Clerke for euery continuance, foure pence per piece.

And if the Defendant do dwell in one County, And the Suite bee commenced in another; Then there must goe foorth a Proclamation vnto the Sheriffe of the County where the Defendant doth dwell at the time when the *Exigent* is awarded; And this Proclamation must beare *Teste* and Returne with the *Exigent*, and both must bee returned (the Defendant not appearing:)

And if the Defendant doe put in *Supersedeas* before the Returne of the *Exigent*, Then the Plaintiffe neede not care for the Returne of the Proclamation.

And if the Defendants Attourney come not to the *Prothonotaries* Clerke, and take a Copie of the Declaration, and make an Answer to the same within nine daies after the Returne of the *Exigent*, Iudgement shal be awarded against the Defendant.

And if the Plaintiffe doe not make his Declaration ready within foure daies after the Returne of the *Exigent*, Then the Defendant may call the Plaintiffe *non Suite* and recouer his charges.

And if the Defendant will haue a *Supersedeas* vpon *Maine-prise*, It must be sued out of the Clerke of the Treasurie his Office vpon Sureties, That if the Defendant make default, hee shall pay the Fine.

If the Sheriffe returne too small *Issues* vpon *Distresse*, The Plaintiffe may haue *Amerciament* against him, and haue him called into the Court to amend the *Issues* for the Kings aduantage.

If the Plaintiffe bee not ready to Reply vpon pleading, Hee may enter *Imparlance*, and giue day ouer vntill the next Terme, vnlesse the Defendants Attourney preuent him, by giuing to him a Rule and day certaine to Reply.

At the day of *Imparlance*, The Plaintiffe is to call the Defendant, and to giue him a day to plead or answer againe, or to make it knowne, whether hee will stand to the Plea or Answer which he made in the precedent Terme, or no.

And if the Defendant doe neither make knowne, that hee will then stand to his former Answer, nor answer *de nouo* vpon ordinarie dayes giuen vnto him, He shall be condemned in the Cause: For he cannot then refuse as hee might vpon an *All. bre.*

When any matter is pleaded to an *Issue*, The Plaintiffes Attourney must haue a care, to see the *Issue* be rightly entred into the *Prothonotaries* Roll, And thereupon put in his Warrant of Attourney, if it be not in before at the *Exigent*, in manner (as aforesaid).

But it is most requisite that the Warrant should be put in vpon the *Exigent* by the Plaintiffs Attourney, for feare lest the Defendant should not appeare, but be returned vtlawed:

And the Defendent, in case the Plaintife shall faile to put in his Warrant (as aforefaid) may sue error in the proceeding, And assigne the want of a Warrant, which is manifest error; And thereupon the Plaintiffes Attourney shall pay tenne pounds.

After the Issue is entered, the Plaintiffe may sue foorth *Venire facias*, or else continue it for a Terme or two :

And vpon the Plaintiffs default by ouer-long delay, The Defendants Attourney may sue forth *Venire fac.* pannell.

Note, that you may enter the first *Ven. fac.* returned fifteene dayes after; At which day, the Writ of *Nisi prius*, with the *Hab. Corp.* is also awarded, and the Tryall likewise (if it be in London.)

After verdict vpon Tryall, The *Postea* is returnable in his due time :

Therevpon the iudgement is entred, And a *Capias* goeth foorth first into London, because the Action is laid in London : This *Capias* is to be returned fifteene dayes after *Non est inuentus*; And then goeth forth *Capias* with *Testat.* into the County where the Defendent dwelleth; Then is Execution sued out, and not before.

Note also, that if the Sheriffe at the day of the *Ven. fac.* doe returne the same sued, Then the Plaintiffs attourney may haue a *Hab. Corp.* thereupon to bee made by the Clerke of the Iuries, which

which he is to see wel examined when he fetcheth the same away from thence.

And at the Returne of the said *Hab. Corp.* if it be at the Assizes, and the Iury fill not at the calling of them, the Plaintiffes Attourney may craue a *Decem tales de circumstantibus*, Ten the like of those that bee standing by, to fill vp the Iury.

But if it be at the *Common-pleas* Barre, He may not craue a *Tales de circumstantibus*, but a *Tales* onely; or sue a *Distresse* with a *Tales*.

The first onely is a *Decem tales* at the Barre: The second, an *Octo tales*, if the *Decem* did not fill; So from *Octo*, vnto *quinto*: and from *quinto* to *Duo tales*, he must descend till the Iury be filled. All which the said Proesse must bee taken out of the *Prothonotaries* Office, or the Office of the Clerke of the Iuries, which be respectiue-ly entred most duely.

And if the Sheriffe vpon any of these said Writs doe returne *Tarde*, for want of sufficient time to warne the Iury, You are to sue forth an *Al. distress*.

Note, that if a *Plea* bee pleaded heere by the Defendant, and the Plaintiffe haue therevpon replied: if it be a plea of a former Terme, the Defendant can neuer amend or withdraw his plea, except it be in Letters or Syllables; But if it be in the same Terme he may:

For in this Court euery Plea is, or ought to be

be entred in euery Terme as it is pleaded; how-
foeuer it is otherwise in the *Kings Bench.*

If the Defendant bee returned *sufficient* in an
action of Trespasse, A *Distresse* is to be awarded.

And if he be returned *Nihil*: then the seuerall
Cap: and an *Exigent* be awarded.

If an *Vtlary* be returned, Then lyeth a *Capias*
vtlagat. generall, which is for the body onely.

Or else a *Cap. vtlagat.* speciall; which is for
the body and goods.

Note, that if you doe sue any of the Nobili-
tie of this Land, who are of the Parliament
House, in any action whatsoeuer, wherein Pro-
cesse of *Vtlary* lyeth; Although the Sheriffe re-
turne him *Nihil habet*, yet you may not sue a
Capias against him, but a *Pone*, into the Shiere
where his Land lyeth: wherevpon if he doe not
appeare, Hee loseth five pounds. And after a
Pone, you shall sue a *Distresse*, And *Distresse* after
Distresse, in infinitum, vntill he doth appeare.

If after the Sheriffe haue taken the Defendant
vpon a *Cap. ad satisfaciend.* for the Plaintiffe, He
suffer him to depart vpon Sureties, or pawne, and
commit him not to safe keeping, It shall be said
an *Escape* against the Sheriffe:

And then the Plaintiffe may at his election
choofe whether hee will call for the Returne of
the Writ, or sue the Sheriffe for the *Escape*, and
reouer his Debt and Charges against him: O-
therwise he may haue his *Capias* and *Exigent*,
and

and vpon Returne thereof vtlaw the Defendant vpon the Iudgement.

After this kinde of *vrlary*, the Defendant shall neuer haue his pardon, except he first agree with the Plaintiffe, and satisfie him:

Also the Plaintiffe may at his election haue a Writ of *Elegit* in this case, to extend vpon halfe the Lands and goods of the Defendant; except Cattle and Oxen for his plough, &c.

But it behooueth the Plaintiffe to take good heed how he sueth forth the said Writ of *Elegit*: For if it be once entred, you shall neuer haue any other Execution.

Also after a Iudgement, the Plaintiffe may haue an Execution of *Fieri facias de bonis & cactallis*, and thereby leuy his whole summe that is giuen, with the Costs, or some part thereof, according to the value of the goods of the Defendants which he can finde.

And if at the first hee bee not satisfied of his whole summe, he may sue soorth another *Fieri fac.* and so one after another, till he be fully satisfied of his whole Debt.

Your Proceffe being in a Writ of *Rescous*, and *Ranishment of a Ward*, as in Trespasse you shall hold like proceeding of *Attach.* and *Distresse*, and for want of *Distresse*, three *Capias* and an *Exigent*.

The like in a *Quare eiecit infra terminũ*, & *Eiecti-one firme*; And this was giuen by a late Statute:

P

And

And the like by the same Statute, in a Writ of *Annuitie* and *Couenant* vpon an *Indenture*.

But in a Writ of *Entry*, the like proceeding is not, for that the Proceffe is *Grand Cape*, and *Petit Cape*.

The *Grand Cape* lyeth, when any of those Writs are deliuered to the Sherif to Summō the Lands; And, if at the returne of the same the Defendant appeareth not, but maketh default, Thē the *Prothonotaries* Clerk is to giue a day to the Tenant to come in, or else a *Grand Cape* shall bee awarded of the Land: wherevpon he shall be in the courtesie of the Court, whether they will grant him a *Supersedeas* for discharge of the same, or no. Otherwise hee is to wage his Law, and depose that hee was not lawfully summoned; which if he doe, And it bee afterwards proued that hee was lawfully summoned; Then he is in danger of perjury.

If the Tenant or Defendant doe not appeare vpon the *Grand Cape*: Then a *Petit Cape* is to goe forth, And a day likewise to bee farther giuen, And vpon default of appearance; Then the Lands in question are recouered; And therevpon the *Cape* is directed to the Sheriffe to seize the Lands into the Kings hands, vntill farther processe, &c.

Note that the Demandant is to take great care, That there bee no *Essoyne* cast by the Tenants

nants Attourney in this case, for him the said Tenant to appeare :

For if hee haue before that time cast his *Essoyne*, Then may he vpon day giuen, call the Demandant *non-suit*, and cause him to begin againe.

Therefore the Demandants Attourney in this case must especially inuigilate the Office of *Essoynes*, And in all *Reall* actions to get his Writ fyled, and to enter a *Recipitur*, as in a Writ of *Dower*.

Warrantia charta, De droyte, & Surdisseisin, haue the like proceeding, because their Proceffe is also alike.

30 If you haue Iudgement in any action, And suffer the Iudgement to continue without doing of any thing therein, by the space of a yeere and a day: you shall be then forced by reason of such delay, before you may take out any execution therevpon, to sue out of the Court where your said Iudgement is Recorded, a Writ of *Scire facias*, And after the Returne thereof you are to giue day to the Defendant to come into the Court, and to shew cause why the Iudgement should not be awarded against him vpon his default; wherevpon if good cause be not shewed, the Iudgement is to be allowed; and execution may be taken forth.

In case where the Plaintiffe or Defendant happen to dye after Iudgement and before exe-

cution; Then are the Executors or Administrators of the Plaintiffe to sue out a Writ of *Scire facias*, against the Defendamt, his Executors, or Administrators, which being returned; then the Execution of *Fieri facias* at the first, and in case where the Defendant is dead, must bee awarded onely of the goods of the Testator or Defendant defunct, and not of the goods of the Executor or Administrator.

This execution of *Fieri facias*, beeing deliivered to the Sheriffe to bee executed, if the Sheriffe shall finde that the Executor or Administrator did diuaste the goods of the Testator or Defendant defunct; and shall therevpon returne a *Diuastavit*; Then shall a Writ of *Fieri facias* be awarded *de proprijs bonis Testatoris*, or *Administratoris*; Or otherwise Execution may be taken forth against the body of the Executor or Administrator, at the choyce of him that sueth it out.

How to sue a matter of

Errour.

IF you would sue a matter of *Errour*, you must either make a perfect true Copy of the Originall; or of the *Exigent* in that cause, and carry it to the *Cursitor* of the Shire, where the Action lyeth, thereby to make your Writ of *Errour*.

When

When you haue your Writ of *Error* (if it be before Iudgement) you may deliuer it to the Clerke of the Treasurie; wherevpon the Attourney for the Plaintiffe is to deliuer vnto you the number of the Rolles where euery thing is entred:

And if it be after Iudgement, Then before you know the number of the Rolles, you must shew cause of *Error* to the Court; or else your Writ will not be allowed.

And in case that then the Writ bee allowed, the Plaintiffes Attourney must deliuer the number of the Rolles to the Clerke of the Treasurie, who will deliuer the Writ ouer with the Record.

And then if the Defendants Attourney doe not get his Record to bee certified the same Terme, The Plaintiffes Attourney may procure a day to be giuen in Court vnto him to doe it, and to remoue the same.

By which day if the Defendant doth it not accordingly, Then hath he lost the benefit of the *Error*. And after one Writ of *Error* so put by; the Defendant shall neuer haue any more.

And if the Record bee accordingly certified, Then the next Terme following you are to assigne the *Errors* there:

Otherwise there will goe forth two Writs of *Scire fac.* to be deliuered to the Sheriffe of *Midd.* and to giue you warning to assigne the *Errors*:

which if you doe not within three or foure dayes after the Returne of the later of the said two Writs, your Writ of *Error* will be quash't, and you shall lose the benefit thereof.

And if one be vtlawed vpon meane Processe, and would reuerse the same by Writ of *Error*, he must take this course: (*viz.*)

 Looke if there be any Writ vnreturned:

 Or any Writ mis-returned:

 Or any Writ vnfyled:

 Whether the *Proclamation* bee fyled,
 or no?

 And whether it be well returned:

 Or whether a Warrant of Attourney be
 put in or no?

All these before mentioned be *Errours*, which before Iudgement the Court will correct themselves.

And if you finde any of the said *Errours*, you must goe to the Clerke, and shew him the number Roll where the *Exigent* is entred, and cause him to enter the *Vtlary*.

This being done, you are then to get the Bundles where any such Writ is fyled, to be brought into the Court, from the Office of *Custos breuium*, where they be kept.

Then you must haue one to enforme the Court thereof on your behalfe.

If the Error which you pretend bee for want of a *Proclamation*, then you are to get aswell the

Record

Record of the Terme where the *Exigent* is entred, as the bundle of Writs to be brought into the Court to be reuiewed.

And the like you are to doe of the meane Proceffe.

And if it shall appeare to the Court, That any of the Proceffe bee fyled and not returned, Or there be error in the Returne, Or there be want of meane Proceffe, or of Proclamation; The Court will award the *Reuerfer* to be entred.

And if the partie vtlawed can finde no Error, and yet would vndoe the vtlarie, If it bee vtlary before a Iudgement; Hee is to sue out his Writ of Error, And thereupon a *Superfedeas*:

Then hee must sue out his pardon of course, And vpon that, Hee may haue a *Scire facias* directed to the Sheriffe of the County where the Originall was laid, to giue warning to the Plaintife to be ready in Court to profecute his Action against the Defendant, if he haue any thing to charge him withall.

Hereupon, if the Plaintiffe doe not declare against him the Defendant within a certaine space giuen to him by the Court, Then the Defendant shall bee quit of that Action, And the Plaintife is to begin his suite againe if he will.

But if the partie vtlawed haue any goods or Cattell taken by colour of that Vtlarie, Then he is to sue out a Writ *de non molestand.* from the Clerke of the Treasurie, which Writ he is to deliuer

liuer to the Sheriffe; Wherevpon the Sheriffe is to deliuer to him his goods or Cattell againe without Bond.

But it is otherwise where the Defendant doth not bring his Writ *de non molestand.* but intends to ouerthrow all by Error; For in that case, he shall bee driuen to enter into Bond for the prouing of the Error.

In euery case where the Cause goeth with the Plaintiffe vpon a *Demurrer*, And the Debt or matter recouered is not expressed, The Iudges of the Court may giue their finall Iudgement, and grant you a Writ to enquire of *dámages*; which Writ shall bee directed and deliuered to the Sheriffe, who by vertue thereof, is to impannell a Iurie, who after they be sworne, vpon Euidence to bee produced on the Plaintiffs part, may giue in *Dámages* so much as they thinke in their consciences, and as the VVitnesse shall proue vpon their Oath that hee hath sustained.

Also in an Action of Waste you are to proceede in like sort, if you certifie the Iudges how the Defendant hath made the place waste, and you doe it before Iudgement is by them giuen.

But the Iury needeth not to haue such great care of the *Dámages* in Waste committed, as in other cases of Enquirie in that kind: For whatsoever the Iurie giues in *Dámages* therein, The Court will, according to the Statute in that case especially prouided, double the same *Dámages*.

The

The Plaintiffes Attourney must be carefull to looke to the Clerke of the Essoynes, and take heede where the Essoynes doe lye, And whether they be lawfully cast, or no :

And not onely so, but the Attourney for the Plaintife or Demātant must farther looke to the Adiourning of the Essoynes, & the casting of the *Ne recipiatur* for the aduantage of his Clyent.

And the Attourney for the Defendant should also be as watchfull ouer the Casting of the Essoynes ; For that oftentimes it proues to bee a benefit to himselfe, and a commodity to his Clyent.

Euery Essoyne must bee adiourn'd in time, with such sufficient continuance as the nature of the Action requireth.

For want of Adiournment of the Essoyne, there lyeth a *Non-Suite*.

The casting of an Essoyne where it will not lye, may be disallowed, quashed, and turned into a default ; But when it is rightly cast, then it is allowed, And then it is to be adiourned.

And you must farther take heed, where the inferiour Tenant may pray in ayde of the Superiour Lord, And when, and in what case a Vowcher lyeth to recouer by force.

If Bastardie bee alleadged in generall in any case, The Proesse for the tryall of it is to be directed to the Bishoppe, who is to certifie the same.

Q

The

The Common issues } *Per legem* :
 to Declarations grounded } or,
 vpon Simple actions be — } *Per Patriam*.

To a Bond for perfor- } *Per minas*.
 mance of Couenants } *Per dures*.
 vpon an Indenture or an } *Non est fact*.
 Arbitrement may bee } or
 pleaded ————— } At large.

To an Action of Tres- } *Non Cul*.
 passe you may plead — } or
 } At large : if it bee not
 } vpon tryall of a Title.

To an Action of Bat- } *Ex insultu querentis* :
 tery plead ————— } or,
 } *Non Cul*.

To an Action for Rent } *Rien in arriere*.
 plead ————— }

To an Action of the } *Non Assumpsit modo*
 Case vpo *Assumpsit* plead } & *forma*.

To an Action for Slan- } *Non Cul*.
 der, &c. } or
 } Iustifie the words.

To an Action for detain- }
 ing of Corne, or any }
 thing which should haue }
 beene deliuered, and for } *Non detinet*.
 which there is no Obliga- }
 tion, plead ————— }

Vpon Eiectment. ————— } *Non eiecit*.
 } *Non Cul*.

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Vpon Account. ————— } *Nunques Receptor*
 } *pour Account rendre.*
 Vpon Administration. — } *Plenè Administra-*
 } *uit.*
 Vpon a Demise. ————— } *Non dimisit.*

All which Pleas before mentioned are general, & ad oppositum.

TH^e general issue }
 in an *Affise*, is, } *Nul. Disseisin.*
Nul. Disseisin — }
 ————— }

All special Pleas here are pleaded vnder the hand of one of the *Sergeants* at Law.

No Attourney or Clerke of any *Prothonotaries* Office shall make vp any Paper booke, wherevnto any *Sergeants* hand is, vnlesse he doe first deliuer the same vnto the Defendant to be perused, to whom hee may giue day to bring in the same Booke againe, that it may be entred in conuenient time; And if the Defendant doe not bring it in accordingly, The Attourney or *Prothonotaries* Clerke, who dealeth therein for the Plaintiffe, may enter a Iudgement therevpon.

The Plaintiffes Attourney shall doe well to request the *Prothonotarie* of the Office to peruse the whole issue drawne into a Paper, before hee carry it to his *Sergeant*, to the end the *Prothonotarie* may see whether it be well pleaded or no; without

without double matter, or departing from any speciall pleading, And whether it be truly ioy-
ned or no, according to the truth of the matter
or case; Or else it will be ieopardie and hazzard
of the cause: For the Iury are bound but onely
to finde out according to the issue ioyned, and
no otherwise.

If the Defendants Attourney will suffer the
Action to go against his Clyent by a *Nihil dicit*,
Hee must take heed that there be no part of the
Debt paid: For if hee doe, his Clyent is in his
Aduersaries courtesie for the whole debt,
wherein the danger is the more if it bee vpon a
Bond; For then hee is lyable to the penaltie
and all.

A Title may be tryed vpon an action of *Trans-*
tantum. But that suite doth award no Possession,
but Damgages and Costs of suite onely.

But it is otherwise in *Transf.* and *Eiectione*
frme.

If your goods be remaining in another mans
hands, And he doe not vse them, so that there
can bee no Conuersion to his owne vse proued;
There an action of *Trouer* will not lye, but an
action of *detinew*.

If you doubt, before you appeare for the De-
fendant, that you shall bee compelled to plead
sooner then you shal be prouided of instructions
for the purpose; It is best for you in such extre-
mitie to choole the lesser euill, and to suffer an A-

merciamēt for not appearing.

Or if it may bee had, it were best to impartle,
per licentiam interloquendi, ouer vntill the next
Terme.

In the continuing of an issue, you for the Plain-
tiffe must take heed you giue not away your
benefit to the Defendant, And he Summon by
Pronisio vt supra.

If vpon any Tryall, at the calling of the Iury,
either Attourney shall thinke the Iury to bee fa-
uourable, and not indifferently returned by the
Sheriffe, or his Ministers, hee that is agriued
may desire to haue it tryed and examined, And
so if cause be, the pannell shall be quashed, And
the *venire facias* shall be directed to the *Cōrōner*
of the Shire.

If need bee, you may except against any of
the Iury, for that hee is not a sufficient Free-
holder, &c.

And there may be foure of the Iury, such as
you hold to bee most indifferent, chosen by the
Iustices of the Bench for Tryers, in case you
shall except against the Iury.

And if any of the Iury be excepted against, or
challenged for some speciall combination or
matter contriued betweene the Sheriffe and
them, or the Sheriffes ministers and them: That
shall not bee tryed by the Iury of the Pannell,
but by them that the Iury will appoint, or by
confession of the Sheriffe, or his Ministers:

And

And such things as shall be alleadged and objected for matter of fauour to the one partie or the other ; And the challenge shall bee tryed by certaine Tryers of the pannell, (*viz.*) by men that are sworne, and not challenged vpon their Oathes, And the Tryall shall bee in this manner following: (*viz.*)

If any principall cause of Challenge shall be to any of the Iury, it shall not bee made, vntill he be called to be sworne.

Such cause of Challenge may be, for that he is a Tenant, a Kinsman, or otherwise tyed to be fauourable more to the one party then the other.

Then shall the said Tryers goe together and consider of the matter, and finde whether he be a Tenant, or a Kinsman, or so tyed by speciall Bond to the party for whom he is challenged or no.

And the Tryers shall finde it either vpon their owne knowledge, or sufficient prooffe, and not otherwise.

And the Iury shall not say, that the party so found is fauourable, but that he is a Tenant, or a Kinsman, or so ; And the Law shall iudge and thinke him fauourable:

And so for all other principall Challenges :

And so if the whole Iury bee challenged at the Barre, by the one party, or the other (as oftentimes they be) They shall bee tryed *sigilla-*

sim,

tim, And other Tryers be called forth to try the former ones, in their turne ; and so to proceed *vicissim*, till they be all tryed.

The manner how to proceed in the Tryall of the issue.

THe Plaintiffes Attourney shall doe well to haue the whole Record, and Rules therevnto belonging in readinesse, with all things pertinent therevnto, which hee must get to be read and recited vnto the Iury ; And for the ease of the Iury, the issue whereof they are to enquire, must be truely and plainly deliuered vnto them.

And after this is so read and deliuered (as aforesaid) the Plaintiffes Attourney may write in a Paper the issue, and giue it to the Iury, that they may know what they are to enquire of; prouided, he giue it to them before they depart from the Barre.

After the Record is read, The Counsaile are to say what they can for their Clyents, seuerally and respectiuely.

Then the Witnessses in the matter are to bee produced, sworne, and examined at the Barre, what they can say to the question in issue.

And

And when the Iury haue heard both parties, and the opinion of the Court (if it need, for explanation of matter of Law) They are then to depart from the Barre, And the Court appoints and sweares one of purpose, that he shall safely keepe the said Iury, so that none of them shall depart from the other till they bee agreed: And that no other person who is not of the said Iury, shall in the meane time speake with any of them, nor come among them, vnlesse it shall bee such an one as the Court shall appoint to reade the Euidences to the Iury, in case where none of them can reade themselves.

If the verdict passe with you; you are to pray Iudgement, returne your *Postea*, To make vp a Bill of the costs and charges of your Clyent expended in this cause, To carry your said Bill to the *Prothonotarie*, in whose Office the cause is entred, to asseffe your said costs and expences; which being done, you take out what Execution you please presently, Or otherwise vtlaw the Defendant vpon that Iudgement, as you shall be aduised.

R

Instructions

*Instructions to sue forth
a Recouerie.*

IN a *Recouery* in a Writ of *Entry* in the *Post*,
The Attourney who sueth it forth, must take
good aduice in the drawing of his Writ of
Entry : Hee is to carry it to the *Chancerie* man to
make it.

And the Attourney must take with him, either
his Clyent, or some other person who knoweth
the Land, and get him sworne before one of the
Masters of the *Chancerie* for the true value of the
Land, and what it is worth by the yeere.

Then must the value be set down on the back-
side of the Writ, and the name of the Master of
the *Chancery*, who tooke the Oath, therevnto.

Next, this Attourney must carry it to the Kings
Attourneys Clerke, who is appointed for the
same purpose to get his Masters hand vnto it.

But before you haue your Writ againe from
hence, your Clyent, or some other for him, must
enter into a Recognizance to the King in such
manner, as Master Attourney Generall his
Clerke shall draw vp and make for you ; And
the said Clerke is to carry your Clyent, or other
partie, who is so to enter into Recognizance to
the Court of *Common-pleas*, to acknowledge
the same before the Iudges there.

The effect and condition of the said Recognizance is, That those Lands specified in the Writ, are not holden in *Capite*; And that the Recouerie is not hurtfull to his Maiestie, nor his successors.

And if the Lands bee holden in *Capite*, you must take course before you sue out your Writ of *Entry*, for license in that behalfe; otherwise you shall runne into a great inconuenience, And be forced afterwards to sue out your Pardon in this behalfe.

After your Writ of *Entry* is passed through the Kings Attourneys hand: Then if the Tenants of the Land wil appeare in proper person, Your Writ of *Entry* with the Returne thereof, must be taken out into one of the *Prothonotaries* Remembrances, where you will haue your Recouery entred.

And then in the Margent of the Remembrance make the appearance of him who is vouched.

And this being done, deliuer your Writ to one Sergeant, And the Remembrance to another, when the Court is at good and fitting leifure.

Note withall, That if this be to be done with a *single Voucher*, you are to retaine three Sergeants; And if it bee to be done with a *Double Voucher*, you are to retayne fise Sergeants.

And when it is acknowledged, Then you are to giue the Writ of *Entry* to the Clerke of the

Office that shall enter it; And he will therevpon enter your Recouerie, And make you an Exemplification, & a Writ of *Seisin* in the same Terme.

But if the Tenants doe not appeare in proper person at the Barre but by Attourney, Then you shall not get your Writ of Recouerie to be fully finished the first Terme; but you must haue a *Summ.* entred against the Tenants, And a Writ of *Seisin* awarded.

And it behooueth the Attourney for the Demandant to bee circumspect, both for the Returne of the Writ of *Entry* and *Seisin*, And for the fyling of them, As also for the Warrants of Attourney on both sides; For otherwise by default, or omission in any of them, the Recouerie may be ouerthrowne againe:

And for farther and more assurance in this kinde, it hath bene heretofore vsed; That they haue exemplified both the Writ of *Entry* and *Seisin*, with the Returnes thereof, And the Warrants of Attourney, for feare least afterwards any of them should be mis-fyled, or mis-carried.

And if you would search for any Recouerie acknowledged long before; you must first finde it with the Clerke of the Warrants.

The order to sue forth a Fyne.

First drawe the *Precipe* in sheetes of Paper, and Engrosse the Concord in Parchment: Then get your Writ of Couenant made vp, by the *Cursitor* of the Shire where the Land lyeth, according to the Concord.

And if the Knowledge be to be taken by speciall *Dedimus potestatem*, Then you must deliuer to the *Cursitor* the Commissioners names that are to take the Knowledge; Of which Commissioners one must bee a Knight: And the *Cursitor* is to make vp the *Dedimus potestatem* by the Concord, &c.

Then get your Writ sealed, And deliuer it to the Commissioners, with the *Concord* ingrossed in Parchment, with Seales and Waxe vnto it:

And when your Commissioners haue taken the Knowledge, They are to returne the Writ of *Dedimus potestatem* thus, (*viz.*)

Executio istius Commissionis patet in quadam Scheda huic annex.

And fyle the *Concord* vnto the back-side of the *Dedimus potestatem*; And the Commissioners are to set their hands and Seales to the *Concord*, and their hands to the *Dedimus*, &c.

R 3

Row

*You shall then proceede with your Writ
of Couenant in maner following.*

First, you are to goe to the Office, somtimes called, My Lord of *Leicesters* Office in the Inner Temple, because my Lord of *Leicester* had the first grant thereof: And there to compound for the value of the Land, either by Composition, or *Affedavit* to bee made before a Doctor who doth attend for the same purpose.

The Fine being set down by the Officers here, you are to pay it presently to the Receiuer.

Then will the proper Officers of that Office set their hands to the back-side of the Writ.

Then you must returne your Writ of Couenant in this manner (*viz.*)

At the vpper end of the Writ,

Pleg. de prosequend.

Ioh. Doo.

Ric. Roo.

In the middle,

Summ.

Ioh. Den.

Ric. Fen.

At the lower end,

*I. M. miles vic. id est, the Sherifs name
of the Shire.*

Then

Then carry your Writ of Couenant, *Dedimus potestatem*, and Records, to the *Custos breuium* his Office, and there deliuer them to the Clerke who is for the Shire where the Lands doe lye; And he will take out into Paper what belongs to him to doe, And indorse the Writ, setting downe when the Proclamation shall bee made.

Then you must cary the Writ of Couenant, *Dedimus potestatem*, and Concord vnto the Clerke of the Kings siluer, where hee will dispatch what appertaines to his Office; & where, what you must pay, and for what, shall appeare in the Calender of Fees hereafter in these present contained:

And then take and carry all to the *Chirographers*, or the *Cirrographers* (as it is corruptly stiled) And deliuer it to him who is Clerke for the Shire where the Land lyeth, And he will hereupon make the Indentures of Fyne; For which the Fee shall appeare hereafter in his place.

Here note, that the *Dedimus potestatem* and the Writ of Couenant, must agree in Names, Acres, and Place.

And if the Knowledge bee taken before one of the Iustices of Assize in the Countrey, then the Iudge sets his hand to the value of the Lands, vpon Oath taken before him, but it is written in Paper.

And when you come to passe your Fyne in
my

my Lord of *Leicesters* Office, so called (as I said before) because vpon the new erection of it in the dayes of the late good Queene *Elizabeth*, it was confer'd vpon him, and was deuised & prouided chiefly to take notice of Alienations, being the prioeet of one M^r. *Sutton* of *Lincolnes Inne* (as I take it.) Then you must borrow that Paper of the Iudge of Assize before mentioned, to shew it vnto the Officers here ; Or else you shali bee compelled to compound anew for the value of the Lands, &c.

But if the Knowledge be made in open Court, Then you must haue the *Precipe* in Parchment, which must bee annexed to the Writ of Couenant, And you must deliuer it vnto the Sergeant at Barre to drawe ; for which, his Fee shall be set downe hereafter : And this you may doe before you pay your Fine, by which Knowledging, you saue your Clyent a good part of his charge.

And if it bee Knowledged before my Lord chiefe Iustice of the *Common Pleas* in his Chamber, or in any other place sauing in the Court ; Then one of his Clerkes will make your *Precipe* and Concord, and write them in Parchment, whereunto he will get my Lords hand :

And then you are to confute the Writ of Couenant to the Concord, And so passe it through my Lord of *Leicesters* Office, The *Custos breuium*, The *Kings Siluer*, and the *Chirographer*, as is before set downe.

Note

Note also (as I gaue you to vnderstand before in part) That if the Lands bee holden *in Capite* of the King, Then you must sue forth your License of *Alienation* for your enabling in that behalfe: For if you enter into the Lands without License, the King will haue a Writ of *Intrusion* against you for the same, And so receiue all the maine profits thereof likewise, vntill you haue sued forth your Pardon herein, which will be a matter of much charge, &c.

*How your Licence of Alienation
on must be sued out.*

First, you must get him who is proper Clerke for the Licenses of *Alienation*, to make your *Docket*, or, as it is corruptly written your *Dogget*, in Paper; which you are to carie to the Office called my Lord of *Leicesters* Office, or Office for *Alienations*:

At this Office, you must compound for the value of the Land, either by Commission or *Affidavit*, and you must pay the third part of the value sessed, for a Fine, and that presently after the Master of *Chancerie*, or Doctor who attendeth for that purpose, hath set his hand to the *Docket*; the Fee for which hand, expect anon.

This being done, your Writ is to bee entred there in the same Office.

S

And

And then two Clerkes of the Office, to whom it doth appertaine of propertie, will set their hands to the Dockquet; And will afterwards make your Licence of *Alienation*, and get it sealed for you. The severall Fees of which severall passages, I referre for their proper Station, &c.

Note that the *Post-Fine* of every Fine knowledged, is as much as you pay in the *Chancery*, and halfe as much more; And it is to bee leuied by the Sheriffe of the Shire where the Land lyeth, which did passe by the Fine after all Proclamations, which is the yeere after the Fine is leuied.

The Causes wherevpon Wager of Law lyeth.

IF any man bee sued vpon a simple Contract.

as,

Vpon Booke:

Vpon *Emisset*, or *Emisit*:

Vpon a *Mutuatis*, or *Mutuanit*:

Vpon a *Concessit soluere*, or *Assumpsit soluere*:

Vpon an *Insimul Computauerunt*:

Vpon a *Detinet*:

Vpon a *Trouer*:

Vpon Debt, being not by Obligation or Bills signed and sealed.

In cuery of these, the Defendant may wage his Law: that is, Hee may depose that hee oweth the Plaintiffe nothing, and so auoid his suite.

Wager of Law is to bee done in this wise, (*viz.*) that he plead, *Nil debet per legem.*

And so hee is to get day ouer vntill the next Terme to doe his Law; Or else he may doe his Law presently at his owne election.

But if he deferre the doing of his Law vntill an other Terme; He the Defendant must haue a care to come in at his day, and doe his Law:

Or if it so happen, that he cannot come in at the time and place appointed, His Attourney must remember the time when his Clyent was to doe his Law, and vpon the same day to cast an *Essoyne* for him, or else the Plaintiffe will haue Iudgement against him by default.

And if the Defendants Attourney doe so cast the *Essoyne*, then the Plaintiffes Attourney is to adiourne it, which if he neglect to doe, The Defendants Attourney may call the Plaintiffe *Non suit.*

But if the Plaintiffe doth Adiourne it, then the Defendant is to doe his Law peremptorily at the day giuen him; or else Iudgement shall be awarded against him by his owne default.

And in case where the Attourney for the Defendant doth not cast his *Essoyne* at the day, for the benefit of his Clyent, And his Clyent is not ready to doe his Law: Then the Attour-

ney for the Plaintiffe may enter a *Ne recipiatur*, with the Clerke of the *Eschoynes*, and giue him day in Court to doe his Law very speedily, (*viz.*) within three or foure dayes after, And vpon the Defendants default then, the Plaintiffes Attourney may enter a Iudgement against the Defendant.

Then is the Plaintiffes Attourney to make a Bill of his Clyents charges, and get it rated and allowed by the *Prothonotarie*; which done, hee may make forth Execution against the Defendant, in what sort he shall thinke best.

When the Defendant commeth in to doe his Law, Hee is to bring in some of his neighbours, or acquaintance, to depose with him in manner following: (*viz.*)

Euery of them must make Oath that he beleueth, that the Oath which the Defendant taketh and deposeth is true: (He the Defendant deposing before them, that he oweth no such debt to the Plaintiffe, as the Plaintiffe declareth for, nor any part thereof:)

And the Defendant should bring with him twelue such neighbours, or acquaintance, compurgators with him, who should all depose in like manner (as aforesaid.)

But there is an Officer heere for the ease of the subiect, who will furnish the Defendant in this case of Wager of Law, with twelue such Compurgators as occasion shall require; for
with

with a lesse number you cannot wage your Law, &c.

When the Defendant hath his said full number of twelue: Then his Attourney is to get the *Prothonotarie* to take his Wager of Law.

Then will the Cryer of the Court cause the Defendant to stand vpat the Barre; And the Iustices will examine him, whether hee oweth or deteineth the money, or goods, or Chattels, contained in the Declaration, or any part or parcell of the same; wherevnto the Defendant is to answer yea or no :

And if the Defendant deposeth that hee doth not owe or deteine from him the Plaintiffe the same, nor any part or parcell thereof, And the Plaintiffe will stand to his action, Then is the Defendant quit thereof for euer, and the Plaintiffe loseth his action.

But if the Plaintiffe will not abide his Oath, intending to charge him otherwise afterwards: The Plaintiffe may be *Non suit*, pay the Defendant his Costs, and be at libertie to begin anew againe at another time, and to lay his action so (in some cases) that no Wager of Law shall lye therein.

Note farther, that a man may wage his Law in diuerse Reall actions :

As,

In Formedowne, or Formedon,

Indescender, Remainder, or Reuerter,

§ 3

Waste,

Waste :

Warrant ch.

Donat : or

Any Action where Summons lyeth.

For if the Sheriffe returne that hee hath summoned, where he hath not summoned, wherevpon a *Grand Cape* is awarded; Then, and in such case may the Defendant come in and wage his Law that he was not summoned, and so auoid the *Grand Cape*.

The order to sue forth a Nisi prius extra.

IF the matter be pleaded to an issue, so that it is to be tryed by *Nisi prius* in London, or in the Countrey: Then must the Plaintiffes Attourney, after issue is ioyned, see the same well entred, and examined by the *Prothonotarie*:

Then carry the Paper Booke to the Clerke of the *Nisi prius*; And he or some Clerke of his is to make vp the Record.

Then let your *Prothonotaries* Clerke make forth your *Venire facias*; which, after it is sealed, you must carry to the Sherif of the Shire where the issue is ioyned, And cause him to return your Iury:

When you haue your Iury, you are to carry it to the Clerke of the Iuries, that hee may therevpon

vpon make your *Hab. Corp.* or *Distringas*, which you are to deliuer to the Sheriffe. Then will hee returne it, And make your Warrant to warne the Iury, &c.

Then must you take your *Hab. Corp.* and the Iuries names beeing fyled to the backside of the Writ, and *Nisi prius*; And deliuer them all together to the Clerke of the Assizes, who if you doe therefore giue him something more then the ordinarie Fees, will call the Iury at such time as you shall appoint him; Or otherwise you may stay long enough.

Above all things, bee sure that you instruct your Counsaile sufficiently in such things as make most to proue the issue on your party,

And haue your Witnessse or other proofes in a readinesse.

If you try your matter in *London*, Then the *Postea* commeth in on the morrow after the tryall, And Iudgement is giuen presently vpon the same.

But if the Tryall be in the Country at the Assizes, Then the *Postea* commeth not in till the next Terme following: And then you are to call for your *Postea*, and therevpon to see that your Iudgement be well entred, &c. (*vt supra.*)

Super-

Superfedeas de non Mole- stando.

THis Writ *de Non Molestando*, is to prevent, or free the body or goods of a party vtlawed from Arrest: And it is sued out, to the end the party vtlawed may haue securitie and safety thereby, in body and goods, in the meane time while hee is reuerfing of the *Vtlary*, whereby to bee finally discharged of that euill.

If the Plaintiffe haue tooke out Proesse of *Vtlary*, and thereby arrested the Defendants goods or body: This Writ doth discharge them both, or either of them; And if the Sheriffe haue not already made sale of the goods, And before the Returne of the *Cap. Vtlagat.* vpon the deliuerie of this Writ *de non Molestand.* hee must returne them againe.

And if the Defendant doe bring his said Writ to the Sheriffe, after the returne of the *Cap. Vtlagat.* is past, it is then too late, And then the Sheriffe may choose whether he will restore the goods againe, or returne them, or the value of them, which must be appraised by men indifferant, for the Kings Maiesties best behoofe.

And in case after the Sheriffe hath so taken the goods by *Cap. vtlagat.* and vpon bringing
of

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of the Writ *de non molestand.* shal deliuer back to the Defendant his said goods, He the said Sheriffe is thereupon for his *Indempritie* to take bond of the Defendant with Sureties, That if he proue not Errour in the matter, The said goods shall not be made away, but be in readines and forthcoming at all times, and returned, if the Sheriffe shall bee compelled to restore and answere them againe:

But if the Defendant sueth forth this Writ *de non molestando*, and haue it in a readines about him before that the Sheriffe doth attach his body or goods vpon the Vtlary, Then the Sheriffe vpon sight thereof may not meddle with his body or goods in any wise. And so much shall suffice for the Writ *de non molestando*, &c.

Note, that all Actions of the *Case*, *Debt*, or *Batterie* may be laid in what County you please, But *Transf. Eiectment* and *Waste* be locall.

The Charge of proceeding in every severall Case, and upon every severall Processe now followeth.

The Charge of the Originall Writ.

First, for every Originall Writ of the *Common Pleas*, being a Single Writ

	l.	s.	d.
In Debt, } <i>Per piece,</i> _____	0	1	4
<i>Transf. &c.</i> }			
<i>Inde Post diem,</i> _____	0	0	4
<i>Item,</i> for the double Originall } _____	0	1	6
Writ of those kindes, } _____			
<i>Inde Past diem,</i> _____	0	0	4
<i>Item,</i> for a Fine, vpon every Originall Writ, as followeth : _____	(viz.)		
If the Originall exceede forty pounds, it payeth Fine to the <i>Cursitor,</i> _____	0	6	8
If the Originall bee a hundred pounds, it payes Fine, _____	0	10	0
And so from about 40. pound in <i>infinitum</i> , the like proportionable Fine. _____	} <i>With the first proportionably.</i>		

Item,

l. d. s.

Item, for all other Originall }
 Writs, besides the ordinarie ones }
 of *Debt, Transf. Insult.* and the o- }
 ther twelue-pény Writs, you shal }
 pay Fee for making of them, as }
 before is set downe in the *Chan-* }
cerie. _____ }
 }
 } *Vide the*
 } *charge of Ori-*
 } *ginall Writs*
 } *in Chancerie.*

Item, The Cōmon Proces vpon }
 the Originall of *Debt, Transf. &c.* } 0—0—6

Item, the Scale of the Common }
Processe, _____ } 0—0—7

Item, The Common *Processe* }
 vpon an Action of the *Case*, and }
 other Actions of higher nature, }
 beeing most of them Reall, and }
 not within the number of those }
 which pay but 12. pence for the }
 Originall. _____ }
 } 0—1—0

Item, the Scale, _____ 0—0—7

The ordinarie charge to sue an
 Vtlarie in a single Writ.

IN *primis*, The Originall and }
Post diem, _____ } 0—1—4

Item, the *Capias* and *Scale*, _____ 0—1—5

Item, *Post diem*, _____ 0—0—4

Item, the *Alias Capias*, and }
Scale, with the *Post diem*, _____ } 0—1—5

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	l.	s.	d.
<i>Item</i> , the Attourneys Fee. ————	0	3	4
<i>Item</i> , the <i>Plur. Cap.</i> and Seale. ————	0	1	1
<i>Item</i> , the Warrant of Attourney. ————	0	0	4
<i>Item</i> , the Exigent and Seale ————	0	1	6
<i>Item</i> , the Proclamation and Seale. ————	0	1	1
<i>Item</i> , the Returne of the <i>Exigent</i> } for every name. ————	0	1	0
<i>Item</i> , for fyling the <i>Exigent</i> and } <i>Proclamation.</i> ————	0	0	8
<i>Item</i> , If it be with a <i>Post termi-</i> } <i>sum</i> , the fyling of the <i>Exigent</i> will } cost ————	0	1	6
<i>Item</i> , the Attourneys Fee. ————	0	3	4
<i>Item</i> , a generall <i>Capias vltagat.</i> } and the Seale thereof. ————	0	0	11
<i>Item</i> , a speciall <i>Cap. Vltagat.</i> and } the Seale thereof. ————	0	2	4
<i>Item</i> , the Attourneys Fee. ————	0	3	4

*The charges of a Nifi prius in
Guild-Hall in London, taken
by default.*

I <i>Nprimis</i> , The <i>Venire facias.</i> ————	0	2	7
<i>Item</i> , the Returne thereof. ————	0	2	0
<i>Item</i> , the <i>Post Diem</i> of the same. ————	0	0	4
<i>Item</i> , the <i>Hab. Corp.</i> and the Seale ————	0	1	11
<i>Item</i> , the Returne of it. ————	0	2	4

Item,

The Common-pleas. 141

l. s. d.

<i>Item</i> , the Sergeant for warning of the Iury. —————	} 0 — 3 — 4
For the Copie of the issue. —————	0 — 1 — 0
For the Seale of the <i>Nisi prius</i> . ————	0 — 2 — 2
The Lord Chiefe Iustices Fee for entering the Record into his Booke. —————	} 0 — 11 — 9
For reading of the Record. —————	0 — 1 — 0
For the Default. —————	0 — 2 — 4
For the Greene-cloth. —————	0 — 1 — 0
For the keeper of the Hall. ————	0 — 1 — 0
For a <i>Tales</i> if the Iury fill not. ————	0 — 4 — 4
To the Iury <i>per</i> piece, being of the number in the <i>Hab. Corp.</i> ————	} 0 — 0 — 8
To the rest that come in by <i>Tales</i> <i>per</i> piece. —————	} 0 — 0 — 4
<i>Item</i> , my Lords Foot-cloth seruant. ————	0 — 1 — 0
<i>Item</i> , to the Sergeant for keeping of the Iury. —————	} 0 — 1 — 0
<i>Item</i> , for the Barre-keeper. ————	0 — 1 — 0
<i>Item</i> , to the Cryer. —————	0 — 1 — 0
For euery witnessse sworne <i>per</i> piece. ————	0 — 0 — 4
<i>Item</i> , the Attourneys Fee. —————	0 — 3 — 4
<i>Item</i> , for your Counsailes Fee. ————	at least, 10. s.

*The charge of a Nisi prius in the
Country.*

	l.	s.	d.
I N <i>primis</i> , the <i>ven. fac.</i> _____	0	2	7
The returne thereof, _____			<i>vt supra.</i>
The <i>Post Diem</i> , _____			<i>vt supra.</i>
The <i>Habeas Corpora</i> and Seale, _____			<i>vt supra.</i>
The Returne of it, _____			<i>vt supra.</i>
The Bayliffes for warning the Iury, - 0			<i>vt supra.</i>
For sealing the Record of <i>Ni. prius</i> , -			<i>vt supra.</i>
The putting in the Record at the } Assizes. _____	0	15	1
<i>Item</i> , your Counsaillors Fee, }			<i>vt supra.</i>
The Attourneys Fee, _____ }			<i>vt supra.</i>
Where note, that if the Attour- ney, who is named Attourney vp- on the Record, followeth the busi- nesse, you shall saue foure shillings foure pence. But if you vse any o- ther, you shall pay the more. }	0	4	4
<i>Item</i> , All other things, as Iury, The Bayliffe who keeps the Iury, Cryer, and all other, generally and for the most part _____ }	0		<i>vt supra.</i>

Fees belonging to the Prothonotaries, and their Clerkes.

In primis, for every Common Declaration, not exceeding the number of twenty lines in the Roll, And the Roll vnder the number of 700. ————— 0 — 11 — 0

1. s. 7 d.

Where the Originall and *Capias* are double, the Fees generally vpon the same proceeding, bee likewise double here. } *duplex feod.*

Declaration vpon Account. ————— 0 — 2 — 0

Entring of an issue vpon a *per dures imprisonment. nunques* Executor, or *plenè administravit.* } 0 — 2 — 4

Also for the Declaration, and for the Iudgement, *similiter* } *similiter.*

Nunques Receptor pour account rendre. Pro Q. & Defen. } 0 — 14 — 0

Fee of the Defendant for every common issue. } 0 — 1 — 0

Fee of the Plaintiffe for Conditions performed, wherein there is no Reioynder. } 0 — 3 — 0

Of the Defendant for his part, except the Bond bee the longer, } 0 — 2 — 0

but ————— }

Item,

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	l.	s.	d.
Item, for euery Declaration, if it be but twenty lines. _____	}	0	1 4
Item, for euery sheete more, if it be about twenty lines. _____	}	0	0 4 <i>le sheete.</i>
To the Clarke for copying of the Pleas, and titling for euery sheete _____	}	0	0 4 <i>for euery sheete, inde.</i>
The <i>Impar lance Cop.</i> _____		0	1 0
To the <i>Prothonotarie</i> for euery <i>Impar lance.</i> _____	}	0	1 0
For the Entring of the Condition.		0	1 0
In Reall actions, for the Copy of euery sheete. _____	}	0	0 8 <i>le sheete.</i>
Entring of <i>Non assumpfit</i> for the Defendant. _____	}	0	2 0
For the Plaintiffe, <i>similiter</i> _____		0	2 0
For euery Replication _____		0	0 4
For euery Reioynder. _____		0	0 8
For Entring of euery Bayle _____		0	2 0
For Entring of <i>Nihil dicit.</i> _____		0	2 4
For the Copy of the same. _____		0	0 8
If the same contain more then a Roll: Then you pay after the Rate of 6. s. 8. d. for euery Roll more.	}	0	6 8 <i>Euery Roll more.</i>
For euery Iudgement and Sa- tisfaction in Actions Reall. _____	}	0	4 0
To the <i>Prothonotarie</i> for Single <i>Vowcher.</i> _____	}	0	11 6

To

The Common-pleas. 145

	l.	s.	d.
To the Clerke for Entring and Exemplifying <i>inde</i> _____	0	4	0
The <i>Prothonotaries</i> allowance to the Clerke, <i>inde</i> , _____	0	1	6
For writing and examining of every exemplification in Writs of Entry, vpon <i>Voucher</i> or confession, if it bee a double <i>Voucher</i> . _____	0	5	0
To the <i>Prothonotarie</i> . _____	0	14	6
The <i>Prothonotarie</i> allowes to the Clerke, <i>inde</i> , _____	0	2	6
To the Clerke for entring of every Roll. _____	0	0	4
To the <i>Prothonotarie</i> for entring of a Summons. _____	0	4	6
For the Searching of any of the old <i>Dockquets</i> for every Terme. _____	0	0	4
To the <i>Prothonotarie</i> for a Treble <i>Voucher</i> . _____	0	18	6
To the Clerke for entring and exemplifying, <i>inde</i> _____	0	6	0

V

Fees

Fees belonging to the Phillozers
of the Common-pleas.

	l.	s.	d.
I nprimis, for euery <i>Cap.</i> vpon <i>Distresse</i> , and in Debt, Detinew, Accompt, and Trespasse, of Common Proesse. _____	0	0	6
For signing thereof. _____	0	0	4
<i>Item</i> , for euery <i>Capias Pone</i> , or <i>Capias</i> and <i>Distresse</i> in the common Writ of the said Action. _____	0	0	6
For signing thereof. _____	0	0	4
<i>Item</i> , if any such Writ be of the number of sixe names. _____	0	1	0
<i>Item</i> , for a <i>Capias Pone</i> , and <i>Distresse</i> . Sur. Couenant, Annuitie, of Action vpon the Statute, &c. _____	0	1	0
Besides the Seale.			
<i>Item</i> , for euery <i>Exigent</i> vpon the Statute, and vpon the Case. _____	0	1	0
<i>Item</i> , for the deliuary of a Record. _____	0	0	4
<i>Item</i> , if any the aforesaid Writs be longer then is vsuall, by reason of the number of names, or matter contained in them: Then you are to pay therefore accordingly, and ratably. _____			

Fees of the Office of Custos
Breuium.

	l.	s.	d.
I nprimis, for Search of euery Terme. _____	0	0	5
Item, for the Copy of the Writ. _____	0	0	4
Item, for the single bundle. _____	0	0	1
Item, for the fyling of an <i>Exigent</i> , if it bee without a <i>Post terminum</i> . _____	0	1	8
Item, for the fyling of any Sherifes bundle of Writs, so that they come in within three or foure dayes after the first Returne of the Terme. _____	0	0	4

Note, that by reason of the manifold inconueniences, and abuses, which did grow by occasion of the putting in, and receiuing of Writs here, after the day; It was ordered and directed by the Court, That no *Originall* Writ, or *Plur. Cap.* shall be put in, or receiued the last day of the Returne, *inde.*

Item, the Bagge-bearer of the *Custos breuium*, ought to bring in the bundles of Writs of the Terme past, on the first day of the Terme following, to be seene, perused, and vsed by such as haue authoritie to doe it, and that without paying of any thing for the same.

*Duties and Fees belonging to
the Tresurie-house.*

l. s. d.

IN *primis*, for a Search, when you bring with you the Terme and Number Roll, And if it bee in the Terme time, or before the Doore is shut vp, _____ } o — o — 4
every Search.

And if you come to search in the Vacation, after the Doore is shut vp, Then you pay to the Keeper of the same house for opening the doore : _____ } o — 2 — o

And if you search any of the old Termes, Then you must pay for euery of the said Termes which you doe so search : _____ } o — 4 — o

Item, the Officers and Attourneies ought to search and see the *Essoines Rolles* and old Termes in the Tresurie, for their better information and direction in their owne businesse, without paying any Fee at all. _____ } No Fee in pri-
uiledge.

Item, for a *Supersedeas* vpon *Main-prise*, which should be taken (the Defendant being present in person :) _____ } o — 2 — o

Items,

The Common-pleas. 149

	l.	s.	d.
Item, a Bill of Baile therevpon : —	0	0	4
Item, for writing, examination, and certifying inde : ————— } Item, for Fees of Reu. of Par- } don vpon an Vtlary : ————— } For the certifying of the Re- } cord inde : ————— } Item, for the Warden of the } Fleete inde : ————— } Item, for the Clerks paines : ——— 0 — 1 — 8 Item, the <i>Sire facias</i> inde : ——— 0 — 0 — 6 Item, the Bill of Baile : ——— 0 — 0 — 4 Item, for euery <i>Nisi prius</i> , so that } it exceed not three Sheetes : ——— } 0 — 2 — 0 For euery Sheete about three : — 0 — 0 — 4 For the Scale, ————— 0 — <i>vt supra</i> .	0	12	1
	0	6	2
	0	2	1
	0	2	4

Fees of the Clerke of the Essoynes follow.

	l.	s.	d.
I nprimis, for Enrolling of euery } Essoine : ————— } For euery <i>Idem dies</i> , ————— } For euery Adiournment, ——— } For euery Bill of Exception, — } For euery <i>Ne Recipiatur</i> , ——— } V. 3	0	0	6
	0	0	4
	0	0	4
	0	0	6
	0	0	6

For

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	l.	s.	d.
For every <i>Supersedeas</i> made by the Clerke of the Treasurie, ————	0	2	4
For every Copy thereof: ————	0	0	8
If any Roll bee spoiled by any of the <i>Prothonotaries</i> Clerkes, or any other Clerke that doth enter any Rolles; Then the partie that so spoileth them, may goe to the Office and get a new one, paying for the same, ————	0	1	0
<i>Item</i> , of the Lord chiefe Iustice for making and binding of every Terme, for his Fee <i>inde</i> : ————	0	13	4

The Cryers Fees.

	l.	s.	d.
I n <i>primis</i> , for every Verdict or <i>Non Suite</i> in the Court, ————	0	0	4
For every Fine knowledged at the Barre: ————	0	0	8
For calling, keeping, and swea- ring of the lury: ————	0	0	4
For every wager of Law: ————	0	0	8
For every Recouery at the Barre: ————	0	1	0
<i>Item</i> , He ought to haue of every Attourney of the same Court at the end of every Terme, which he well deserueth, ————	0	0	4

of every At-
tourney.

The

The charge of the reuersing of an
Vtlary followeth.

	l.	s.	d.
I nprimis, to the Exigenter for the Terme and number Roll. ————	0	1	4
For a Warrant to enter the Attourney. ————	0	1	4
For entring of the Vtlary. ————	0	6	8
To the Clerke that enters it for his paines. ————	0	1	6
For the Pardon. ————	2	0	0
For the Supersedeas. ————	0	3	0
For the Scire facias, and the Returne inde. ————	0	2	4
The Attourneys Fee. ————	0	3	4
<i>Summe</i> ————	3	0	2

Fees belonging to the Clarke of the
Vtlaries follow.

	l.	s.	d.
I nprimis, for Search of euery Terme. ————	0	0	4
Item, a generall Capias Vtlagat. ————	0	0	10
Item, for a Speciall Capias Vtlagatum. ————	0	2	4

Item,

l. s. d.

Item, the *Certiorare* vpon an *Vtl.* 0 — 2 — 0

For a Copy and Fine. ——— 0 — 0 — 10

And for your direction Note; That if you would cause an *Vtlary* to bee certified, which is in the Sheriffes hands: For that the parties are agreed, you must first get a true Copy of the *Exigent*, which you must bring to the Clerke of the *Vtlaries*, and request him to make you a *Certiorare* thereby, directed vnto the Sheriffe of the Shire, where the Defendant is vtlawed; This you are to deliuer vnto the Sheriffe, And hee therevpon must certifie and returne it ouer of force, though the Plaintiffe doe not withdraw the *Exigent*.

The charges of Trauersing of an Vtlary, and Pardon vpon the the same, wherevpon you are to proceede in this and other Courts accomodately.

l. s. d.

In *primis*, the Search of the Num- }
ber Roll. ————— } 0 — 0 — 4

Item, the *Certiorare* out of the }
Chancerie to remoue the Re- }
cord. ————— } 0 — 2 — 6

Item,

The Common-pleas. 153

l. s. d.

Item, the Clerke of the Treasury }
of this Court, for remouing of the } 0 - 14 - 1
Record. _____ }

Item, for drawing of the Pardon, — 0 - 3 - 4

Item, for engrossing of the Pardon — 0 - 16 - 8

Item, for examining of it. — 0 - 1 - 0

Item, for Inrolling of it in the }
Chancerie. _____ } 0 - 3 - 4

Item, for the great Seale. — 1 - 0 - 6

Item, for the first *Scire fac.* — 0 - 2 - 6

Item, the returne thereof. — 0 - 2 - 0

Item, for entring of the *Vtlary*. — 0 - 0 - 8

Item, to one of the *Prothonotaries* }
for allowance of the Pardon. — } 0 - 2 - 4

Item, the *Post Diem* of the first }
Scire facias. _____ } 0 - 0 - 4

Item, the Copy of the Entry. — 0 - 1 - 0

Item, to the Clerke of the *Vt.* }
laries for discharging of the same. — } 0 - 2 - 0

Item, the *Supersedeas de non Mo-* }
lestando. _____ } 0 - 2 - 6

Item, for the Attourneys Fee. — 0 - 3 - 4

Summe _____ 3 - 6 - 4

*The charges of a Recouerie at
the Barre.*

	l.	s.	d.
I <i>Primis</i> ; the Writ of Entry. ————	0	2	6
For Entering of the Writ of Entry in the Alienation Office. ————	0	0	4
To the Doctor or him that doth attend for the Composition. ————	0	0	4
For indorsing of the Writ. ————	0	0	6
For syling of the same. ————	0	1	0
For Fine thereof, according to the value made by deposition of the party. ————	} <i>As in the Table fol- lowing Hereafter.</i>		
To the Receiuer. ————	0	0	6
For Returne thereof. ————	0	2	0
To Master Attourney Generall for signing of the Writ. ————	0	10	0
To the Secondary for making of the Remembrance. ————	0	2	0
For a Single <i>Voucher</i> for three Sergeants. ————	0	10	0
For a Double <i>Voucher</i> to foure Sergeants. ————	0	13	4

If there be not so many Sergeants at the Barre, at the time of the knowledging of the recouery, whether with single or double *Vowcher* as there ought to be: The ouer-plus of the Sergeants due is to be deliuered to the Puisne one. —————

To the
Puisne le
surplusage.

l. s. d.

Iustice to the Poores Box. —————	0	0	6
<i>Pro Iustic. Iunioribus</i> , —————	0	2	0
The Common <i>Vowcher</i> . —————	0	0	4
To the Cryer. —————	0	1	0
To the Keeper. —————	0	0	6
To the <i>Prothonotarie</i> for entring a Single <i>Vowcher</i> . —————	0	14	6
To the Clerke for exemplifying of the same. —————	0	5	0
For the Seal of the Recouerie in greene Wax. —————	0	2	2
The Writ of <i>Seisfin</i> and Seal. ———	0	1	1
The Returne of the <i>Post Diem</i> thereof. —————	0	2	0
The Warrant of Attourney. ———	0	0	8
The Attourneys Fee. —————	0	3	4

And if there bee a Writ of Summons awarded, for that the Recouery cannot bee perfected in one Terme, the Attourney may demand another Fee, very reasonably and iustifiably. —————

Double
Fee, *pro*
Attornato.

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For taking of *Affidavit, pro* } 0—10—4
valore terr. _____ }
 For the Writ of Summons. — 0—2—0
 For the Returne and *Post Diem.* — 0—2—4
Summe total, besides the Fines, — 3—6—0

The Fines follow, *Secundum ratum & Consuetudinem.*

Valew of

*For Land
 of yeerely
 value of*

<i>Land,</i>			<i>Payeth,</i>	<i>Rate,</i>		
<i>l.</i>	<i>s.</i>	<i>d.</i>		<i>l.</i>	<i>s.</i>	<i>d.</i>
3	6	8	_____	0	6	8
5	6	8	_____	0	10	0
7	13	4	_____	0	13	0
8	13	4	_____	0	16	8
11	0	0	_____	1	0	0
12	0	0	_____	1	3	4
14	6	8	_____	1	6	8
15	6	8	_____	1	10	0
17	13	4	_____	1	13	4
18	13	4	_____	1	16	8
20	0	0	_____	2	0	0
22	0	0	_____	2	3	4
24	6	8	_____	2	6	8

And so proportionably, and according to the said Rates.

The

The Charges of a Fine, with license of Alienation, followeth.

l. s. d.

I nprimis, for making of the <i>Dockquet</i> , _____	} 0 — 1 — 0
For signing of the <i>Dockquet</i> . _____	0 — 2 — 0
For entering the Fine, _____	0 — 0 — 6

Note that

The Fine for Alienation, is the third part of the yeerely profits of the Lands set downe by the Officers in the *Dockquet*. _____ } *Fine third part valoris terr.*

For making of the License, and for sealing of it, _____ } 2 — 0 — 0

For entering of the Composition. 0 — 0 — 6

The Writ of Couenant. _____ 0 — 2 — 6

The Fine in the Writ of Couenant, is the tenth part of the value, as it is set downe by the Officers. _____ } *Fine bre. Couenant tenth part valoris terr.*

To the *Custos breuium*. _____ 0 — 2 — 8

For entering of the Kings siluer. — 0 — 0 — 6

To the *Chirographer*. _____ 0 — 5 — 8

The allowance of the Proclamation, _____ } 0 — 1 — 0

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	l.	s.	d.
For engrossing of the Fine, and } expedition. _____	0	1	6
The Attourneys Fee, _____	0	6	8
<i>Summe Total. besides Fines,</i>	3	4	4

*The charge of a Fine knowledged
by speciall Dedimus pote-
statem.*

	l.	s.	d.
I nprimis, the Writ of <i>Dedimus</i> } <i>Potestatem</i> , _____	1	2	2
The Fine in the Hannaper, _____	0	6	8
The Lord chiefe Iustice his } hand to the <i>Dedimus potestatem</i> .—	0	1	0
To the Master of the Rolles, for } his hand to the same, _____	0	1	0
The Returne of the <i>Dedimus</i> } <i>potestatem</i> , _____	0	2	0
The Attourneys Fee, _____	0	3	4
For drawing of the Concord, _____	0	3	4
The Writ of Couenant, _____	0	2	6
The <i>Post Diem inde</i> , _____	0	0	4
The Returne thereof, _____	0	2	0
<i>Item</i> , one of the <i>Custos bre-</i> } <i>uium</i> his Clerkes, which taketh } out the Fine, _____	0	1	0

The

The Common-pleas: 159

l. s. d.

The Fine is according to the value (*idest*) the tenth part of the value, _____ } 0—10—pars.

For the Cōmission or *Affedavit*. — 0 — 0 — 4

For the Kings siluer. — 0 — 10 — 0

The Entring of the Writ of Co-ueenant, _____ } 0 — 0 — 6

The *Custos breuium*, — 0 — 2 — 8

To the *Chirographer*, — 0 — 6 — 6

If you bring your Writ of Co-ueenant after the Terme is ended, The allowance of the Proclamation will cost you _____ } 0 — 1 — 0

For engrossing of the Fine, — 0 — 1 — 0

For expedition, — 0 — 0 — 6

For the Attourneys Fee, — 0 — 3 — 4

Summe Total. besides the Fine to the King, is _____ } 2 — 1 — 10

And so much shall suffice for the charge of a Fine so acknowledged: Now followeth

The charge of a Fine knowledged before my Lord chiefe Justice of the Common-pleas.

Inprimis, for drawing of the Concord, _____ } 0 — 2 — 6

The

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	l.	s.	d.
The Writ of Couenant, _____	0	2	6
The knowledging before his Lordship, _____	0	9	4
The Fine for the value, _____	<i>ut supra.</i>		
For the <i>Affidavit</i> and Com- position, _____	0	0	4
For entering the Writ of Coue- nant, _____	<i>ut supra.</i>		
To the Recciuer, for making of the Writ, and knowledging of the same. _____	0	0	6
The Returne of the Writ of Couenant, _____	0	2	0
The <i>Post Diem inde</i> , _____	0	0	4
To my Lord chiefe Iustices man for getting of his Lords hand to the Concord, _____	0	1	0
To the <i>Custos breuium</i> , _____	0	2	8
For engrossing of the Fine, _____	0	1	0
For expedition, _____	0	0	6
Attourneys Fee, _____	0	3	4
<i>Summe Total. besides the Fine</i> <i>to the King,</i> _____	1	13	4

The

The Charge of knowledging a
Fine at the Barre.

	l.	s.	d.
FOR engrossing of the <i>Concord</i> , ———	0	2	6
<i>Bre. de Couenant</i> : ———	0	2	6
<i>Affedavit</i> , ———	0	0	4
<i>Allocatio bre. de Couenant</i> , ———	0	0	6
To the Receiuer, ———	0	0	6
To the Sergeant. at Barre, ———	0	3	4
To the <i>Prothonotaries</i> Clerke for } making the Knowledge, ——— }	0	0	6
To the Box, ———	0	0	6
To the Porter, ———	0	0	6
Fine to the King, ———	<i>ut supra.</i>		
Returne of the Writ of Couenant —	0	2	0
<i>Custos Breuium</i> , ———	0	2	8
Entring of the Kings Siluer, ———	0	0	6
To the <i>Chirographer</i> , ———	0	5	8
Engrossing of the Fine & Expeditiō, —	0	1	6
<i>Sūme total, besides</i> } <i>the Kings Fine, —</i> }	1	3	6

AL Writs of Couenant, Writs
of Assize, and Writs in na- } *as before is set*
ture of Assize about the value of } *downe.*
fortie shillings, pay Fine, ——— }

Writs of Debt, }
and } *Above 40. l. pay Fine as fol-*
Writs of Transf. } *loweth, (viz.)*

Y

About

162 The Common-pleas.

About 40. l. — vnto 100. l. payes, — 0. l. 6. s. 8. d.

	l.	s.	d.	payes	l.	s.	d.
100	— 0	— 0	— 0	— 0	— 10	— 0	— 0
133	— 6	— 8	— 8	— 0	— 13	— 4	— 4
146	— 13	— 4	— 4	— 0	— 16	— 8	— 8
200	— 0	— 0	— 0	— 1	— 0	— 0	— 0
233	— 6	— 8	— 8	— 1	— 3	— 4	— 4
240	— 13	— 4	— 4	— 1	— 6	— 8	— 8
300	— 0	— 0	— 0	— 1	— 10	— 0	— 0

Et sic progreditur in infinitum.

VV Rits of Formedowne aboute the value of foure pounds, pay Fine in forme following, (*viz.*)

	l.	s.	d.	payes	l.	s.	d.
5	— 6	— 8	— 8	— 0	— 6	— 8	— 8
6	— 6	— 8	— 8	— 0	— 10	— 0	— 0
10	— 13	— 4	— 4	— 0	— 13	— 4	— 4
11	— 13	— 4	— 4	— 0	— 16	— 8	— 8
16	— 0	— 0	— 0	— 1	— 0	— 0	— 0
17	— 0	— 0	— 0	— 1	— 3	— 4	— 4
18	— 0	— 0	— 0	} <i>Ratably.</i>			
19	— 0	— 0	— 0				
20	— 0	— 0	— 0				
20	— 0	— 0	— 0	— 1	— 0	— 0	— 0
22	— 6	— 8	— 8	— 1	— 10	— 0	— 0

Et sic de ceteris proportionabiliter procedendum est.

All Writs of

Pone of Iustic.

Pone of Writs of Right,

Pone de auerijis bonis et Catallis,

De Conspiratione,

Falso Iudicio,

Recordare of all kindes except de auerijis, &c.

Accedas ad Curiam,

Dedimus potestatem for knowledge of a Fine, or

Deede to be enrolled or cancelled.

Euery of these Writs doe pay } l. s. d.

Fine, _____ } 1 — 6 — 8

I Doe cōfesse that I haue here omitted the precise order of setting down the proceedings of the *Cōmon Pleas*, in the way of gradation and true footmāship in the Scale of Method numerously; As also in the deliuiery of the Fees of this Court.

I doe acknowledge, that more might haue bin added; And some of these may bee subiect to the quarrell of those who desire to keepe their Law-mysterie in *Emblems* and *Characters*, like to conscionable *Caldeans*; rather then to cōmunicate them with the publike in a knowne way of dealing, and a familiar Language of cōmerce: For Answere wherevnto, I referre mee to the Preface in the frontispice hereof,

Desiring only such as affect generall good, to testifie their generous and ingenerate goodnesse in the Assistance heereof.

Thus the Author prays in ayde of your *Common-Pleas* men especially, and as dutie more bindeth him, of that most worthy to be so most eminent a *Prothonotarie* among you, *M^r. Browlowe*; with this Conclusion :

You that are Masters of this Science,
I aske your ayde and free suppliance.

Cætera turba tuas muscas venare ; ministro :
Fulminis hac valido propria præda : Vale.

THE



THE
KINGS
BENCH.



THE *Kings Bench* consists of the
Prothonotarie side, and the
Crowne Office side, &c.
On the *Prothonotaries* side are
(as I deliuered in my *Search*. of
Record:.)

Only

Personall Actions, and some mixt Actions,
besides such matters as the King
is partie.

FOR their proceeding in personall and mixt
Actions, It is generally the like as that of
the *Common-pleas*, and therefore shall
not require a second recitall. So are their Fees.

generally alike : For he that is a sufficient *Common-pleas* man , is able to the practice of any other Court of Common Law whatsoeuer.

And therefore I shall onely shew you in what points of proceeding they doe differ , And how easily those differences are, or may be reconciled withall.

The *Kings Bench* vseth onely a *Latitat* for their Leading Processe.

To this, the first Leading *Capias* of the *Common-Pleas* does answere :

For as the *Capias* hath an Originall Writ to goe before it; So the *Latitat* supposeth and pretendeth a Bill of *Middlesex* to lead it also, For that is granted in the *Kings Bench*, because it is intended that the Defendant vpon returne of a Bill of *Middlesex* precedent doth *Latitare in balliua tua, &c.*

Onely the *Latitat* is like to Doctor *Giffords* water, which serues for all diseases, and so It holds one forme in all cases and actions whatsoeuer, and charges the Defendant onely *De pl. Trans.* be it for Debt or other cause, &c.

But the Originall must containe the true cause of Action, and be so exactly set down & drawn, that all the following Processe and proceeding, must bee tyed to agree with it *punctuatum*.

The *Kings Bench* man payes Fine to the King, in Debt and the like Actions about ——— 40. l.

So doth the *Common-pleas* man too :

But

But the *Kings Bench* man, hee payes but halfe so much as the *Common-pleas* man doth; And the *Common-pleas* man is the better pay-master too: For he payes at the first entrance into suite, and vpon the Originall, whereas the other payeth not till he Declareth; which in many cases neuer is done at all.

In the *Kings Bench*, the Plaintiffe hath longer time to declare then is allowed in the *Common-pleas*. And where the Defendant appeareth vpon ordinarie Bayle, whosoever will, may come in and declare against him, which is not vsed in the *Common-pleas*.

In the *Kings Bench* you shall not need to put in special Baile, vnlesse it be for debt vpo Specialty:

So is it likewise in the *Common-pleas*.

But the *Common-pleas* enioynes speciall Bayle for 10. l. And the other not vnder 20. l.

In the *Kings Bench*; the Attourney for the Defendant may mend or alter his Plea, after it is deliuered ouer.

So may the *Common-pleas* man too:

But the *Common-pleas* man must doe it within the same Terme; whereas the *Kings Bench* man hath a longer time, For that hee is not tyed to enter by parcell, and so soone as the *Common-pleas* man is; but to doe it all together, and at much more leisure.

For the charge of remouing the body of any Prisoner, by *Habeas Corpus* in the one, or by *Ostensions*

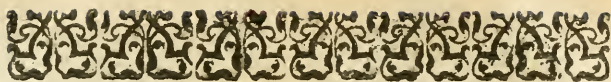
Ostensum est in the other, though there be some difference in the first Rise, and here and there afterwards in the proceeding of the Remoue, putting in Bayle, and fying of it: yet if we conferre their Bills of Costs together; in the conclusion we shall find a very little difference in the whole:

Both pay Dammage cleere, that is, poundage vpon euery twenty shillings in a Iudgement: But the *Kings Bench* payes onely twelue pence in the pound, and the other payeth two shillings.

There bee some other few differences in the formalitie, but none in the substance of their mysteries. And thus I leaue the *Prothonotarie* side.

For the Crowne Office side: It pleased some to make an especiall suite to exclude my Pen from meddling in their mysterie in my former Worke. And therefore (as I then said) so I must now resolue, that I doe aduisedly pretermit it, and giue it backe to their own care, who are better able to performe this generall good at their pleasure, when it shall please them to intend the publique. And now I bend my iourney homeward, and to my natiue Birth-bed: London.

LONDON:



TO
THE NOBLE
GENTLEMAN, SIR
THOMAS COVENTRY, Knight,
*Attourney Generall to the
King and State.*

I Hold it fit, that in all Factorie,
The Merchant that did set his seruant forth,
Should haue account what is returnd therby,
And know his Factors merit and his worth :
But I (alas) in steade of Bills of Lading,
Must bring thee Maps & Models of new trading:
A new discouerie, which yet (God wot)
I cannot follow to the most extensure :
A place, where benefit is to be got,
If you'l beleeeue me with an equall Censure;
I here present you with the Journall of it,
And humbly pray your patience till I proue it.

*Onely happy
in your acknowledgement,*
THO. POWELL.

Place this before London, fol. 169.

THE
MAY 1850
NEW YORK

...



LONDON, THEIR COURTS OF COMMON

L A W : (viz.)

*First, the Lord Mayors Court:
2. The Sherifes Courts.*

They doe all deale in Actions personall for the most part, vnlesse on the Lord Mayors side sometimes a Reall Action falls in by chance, for matter or demand of something lying within the Citie.

Their proceeding generally is *ad exemplum* of the *Kings Bench*, onely differing in such cases, as where their Customes carry the predomination.

The Defendant, if hee be a Free-man, hath foure defaults, (that is) foure the next Court dayes of the place where the action lyeth, to put

in Bayle to the cause: But the Forreyner hath no such priuiledge.

The Plaintiffe hath a day ouer to declare, vnlesse it be so that the Defendant is a Prisoner lying in Durance vpon the same suite; For in such case the Plaintiffe must declare vpon the very next Court day following the Arrest.

And the Defendant is brought by Writ out of the prison to the Barre, to plead vnto the said Declaration.

There is one mayne difference betweene the Proceeding here, and that aboue at *Westminster*, which is in the most familiar and ordinary action of the City, (*viz.*) their *Indebitatus assumpsit*, And that is, that they deny wager of Law here, vpon it: which (howsoeuer it be countenanced, and glossed by the Custome) I am sure it takes away the Inheritance of a free-borne Subiect by the Law.

The like opinion I haue of an Attachment made of goods in *proprijs manibus* of the owner.

The proceeding here generally in all cases, where they lay by their Customes, are to the president of the Common Law at *Westminster*:

Onely they haue one helpe besides; Errour, and *Erronice emanant* after Verdict here, which is to marke the cause before my Lord *Mayor*; where how farre that *Superintendency* may ouer-rule, I know not.

l. s. d.

The charge of the proceeding
in the Sheriffes Courts in any or-
dinarie Action, where the Iudge-
ment is had by default, is about — } 0 — 16 — 0

Where the Iudgement is had
by Verdict of Iury, about — } 1 — 6 — 8

For a *Non-suit*, in case where
the Plaintiffe doth not declare,
about — } 0 — 8 — 0

For the Customes of the Citie, I referre you
to read

Dunthorne,

and,

Liber Albus :

Both which treat vpon the same subiect, and
are kept in their Common Treasurie at *Guild-
Hall* in *London*, as I declared in my last of Dire-
ction for Search, &c.

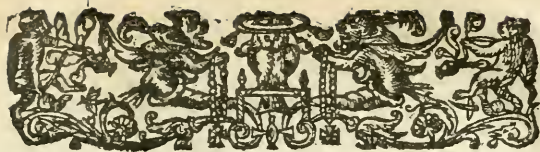
And so much may suffice for *London*, in
auoidance of Repetition of the same
matter ouer againe, for feare of abusing
of your patience, or accusing of mine
owne memory, &c.



All other Courts of Record in
all Cities, and great Townes
 Incorporate:

They all are led to the example of the
Common-Pleas, & Kings Bench generally;
 And their proceeding (as vnto the for-
 malitie) is alike for the most part: And there-
 fore my excuse is gone before mee, for that I
 doe dwell no longer vpon them: but carry
 my eye higher, which is into

THE



THE
S T A R R E
 CHAMBER:

*The practice of proceeding
 there.*

FIRST, It is to be vnderstood, that in case
 betweene partie and partie Subiects here,
 the Leading Processe is onely a *Sub pœna*
ad summonendum against the Defendant.

And the Defendant hath foure daies after the
 Returne of the *Sub pœna* to make his appearance,
 which he must carefully enter:

And for entering his Appea- } I. s. d.
 rance, he is to pay, ————— } 0—2—0

Besides the Attourneys Fee, }
 which serues also for the whole } 0—3—4
 Terme: ————— }

If hee appeare after the foure dayes, and no Attachment bee awarded against him, he then payeth only for the *Post diem*. ————

After the time limited for the Defendants Appearance is past, vpon the Defendants default, and Oath made of the seruing of the *Sub pœna*, the Plaintiffe may haue an Attachment against the Defendant :

	l.	s.	d.
He shall pay Fee for the Oath, —	0	2	6
For the Warrant for the At- tachment, ————— } —	0	2	4
Also for the Writ and Seale, —	0	2	6

If his Returne be at a day certaine, hee hath that day and the next day after to appeare :

But if vpon a generall Returne ; he hath foure dayes after (as aforesaid) wherein it appeareth likewise, that this Court followeth the practice of the high Court of *Chancerie*.

If the Attachment goe forth, and the Defendant be taken thereupon, And commeth in then to make his Appearance ; Hee must enter into Bond to answere the Contempt.

Fee *inde*, ————— 0. l. — 2. s. — 0. d.

If a Bill be exhibited, The partie against whō it is, may, (hauing notice thereof) if he will, appeare *gratis* vnto it, and make answere without Proesse.

If vpon the Attachment made out against the Defen-

The Starre-Chamber. 175

Defendant for not appearing, The Sheriffe returne *Nihil feci*, The Plaintiffe may haue an *Alias Attach.*

l. s. d.

For the Warrant *inde*, ————— 0 — 2 — 0
 Writ and Seale, ————— 0 — 2 — 6

If the Sheriffe returne *Non est inuentus* vpon the Attachment, The Plaintiffe may haue an *Attach.* with Proclamation: wherein this Court still pursues the practice of the *Chancerie*, &c.

l. s. d.

Fee for Warrant *inde*, ————— 0 — 3 — 4
 Writ, ————— 0 — 2 — 6

And if the Defendant doe not appeare vpon the Proclamation, The Plaintiffe is to call for the Returne thereof, which the Sheriffe will returne *Proclamari feci*; And thereupon the Plaintiffe may sue forth a *Commission of Rebellion* directed to sixe such Cōmissioners as himselfe shall please to name, for the apprehension of the Defendant, &c.

l. s. d.

Fee for the Warrant *inde*, ——— 0 — 3 — 4
 Writ and Seale, ————— 0 — 15 — 0

If the Defendant appeare vpon any of the Attachments, The Plaintiffe may haue him committed to the Fleet for his Contempt, vpon order therein.

For entry & Copy of the Order } l. s. d.
inde, ————— } 0 — 3 — 0

Where

Where note, That it is no Contempt, vntill such time as the Counsaile shall iudge and order it to be a contempt.

If the Defendant, after he haue appeared vpon Attachment, doe depart without answering of the Contempt; His Bond may be estreated into the *Exchequer*, And order may be for his Commitment likewise, notwithstanding the aduantage to be taken of the Bond.

The Plaintife must, before he hath any Warrant for Proesse here, put into the Court a perfect Bill, or else a Bill *pro forma*.

If the Plaintife doe exhibit a Bill *pro forma*; So much time as the Defendant hath after the Returne of the *Sub pœna* to make his Appearance, euen so much time hath the Plaintife to make his Bill perfect :

If the Plaintiffes Bill be not put into the Court in due time, the Defendant may get him to bee dismissed with Costs,

	l.	s.	d.
Fee for euery Twenty shillings } Assessed for Costs, to the Clerke } of the Court <i>inde</i> , ————— }	0	1	0
	<i>upon the pound.</i>		

For the Warrant to leade the } Writ whereby to demande it, — }	l.	s.	d.
For the Writ and Seale, ———— }	0	2	0
	0	2	6

If vpon seruing of the said Writ for Costs, And *Affidavit* made on that behalfe, the Costs bee not paid by the Plaintife, The Defendant may

The Starre-Chamber. 177

may haue an Attachment against him.

The Fee of which Attachment, — *vt supra.*

The Defendant hath eight dayes after his appearance entred, to put in his Answer, so as he doe appeare within his due time.

For the Copy of the Bill, for } l. s. d.
 euery sheete, *inde* ————— } 0 — 1 — 0

If the Defendant can not appeare personally, by reason of Impotencie, &c. Vpon *Affedauit* made in that behalfe, Hee may haue a *Dedimus potestatem*, to take his Answer in the Country, as is vsed in *Chancerie*.

	l.	s.	d.
Fee for the <i>Affedauit</i> herein, ———	0	2	4
The Copy thereof, ———	0	2	0
The <i>Non</i> appearance of euery se- } uerall Defendant serued to appeare } and hauing this benefit, ——— } <i>payable in</i>	0	1	4
			} <i>Court.</i>

For euery the like for the same, } 0 — 1 — 8
 to his Attourney, *per* piece ——— } *euery name.*

For engrossing of the Bill, for } 0 — 0 — 8
 euery sheete, *inde* ——— } *euery sheete.*

The Warrant, ———— 0 — 3 — 4

The Writ and Seale, ———— 0 — 7 — 2

If the Oath to iustifie the impotencie in the said case cannot be made; Then the said *Dedimus potestatem* must be obtained; of, and from the Lord *Keeper*, and by suite vnto him to be made in that behalfe.

Fee for the Entry of this Or-² 1. s. d.
 der, ————— 5 0 — 3 — 0
 For the other Fees, ————— *vt supra.*

If neither the *Affedavit* of impotencie can be made; Nor the Lord *Keepers* allowance can be had herein, Then meanes must be vsed to procure the Plaintiffes consent, that the Answer may bee made by *Dedimus Potestatem* in the Countrey; which if it be also denyed, there is no remedy, but the answer must be made heere personally, vnder the perill aforesaid.

After a Commission of *Dedimus Potestatem* is gone forth to take the Answer in the Countrey, It must be returned, after it is executed, by Oath; vnlesse one of the Commissioners himself bring it.

l. s. d.
 Fee for the Oath in this case, — 0 — 0 — 4
 For the Entry thereof, ——— 0 — 1 — 0

Where note, that the deliuerie made by a Commissioner, saueith both the Oath, and the charges of the Oath also.

And if the Defendant in this case doe not answer in time: Then the Plaintiffe may take out an Attachment, (*vt supra.*)

l. s. d.
 For the Warrant *inde*, ——— 0 — 3 — 4
 For the Writ, ————— 0 — 2 — 6

And vpon the Attachment in this case, the Plaintiffe may proceed to a Commission of Rebellion, (*vt supra.*)

And

The Starre-Chamber. 179

And if a *Dedimus Potestatem* bee granted to the Defendant to make answere in the Countrey; The Plaintiffe may, if he please, ioyn with him therein, and minister Interrogatories for the Defendant to answere vnto likewise.

If the Plaintiffe do ioyn with the Defendant in the *Dedimus potestatem*; And the *Dedimus potestatem* is obtained by *Affidavit* made (*vt supra.*) The Plaintiffe must then and in such case pay to the Defendant the one halfe of the charge of the Writ and Seale, &c.

Fee for the Warrant for the	2	l.	1	s.	0	d.
Writ,	—	—	—	—	—	—
	5	0	—	3	—	0
The Writ,	—	—	—	—	—	—
	0	—	7	—	2	

The Plaintiffe hath foure dayes, after the Defendant hath deliuered in his Answere, to put in his Interrogatories, wherevpon the Defendant is to be examined.

Fee for the Copy of the Answere	2	l.	0	s.	0	d.
for euery sheete, <i>inde</i>	—	—	—	—	—	—
	5	0	—	1	—	0

And if the Defendant so please, he may omit the benefit of putting in of any such Interrogatories at all: For he is not bounden therevnto.

And if the Defendant doe depart out of Towne, before he be examined vpon Interrogatories (as aforesaid.)

Then the Plaintiffe may haue an Attachement against the Defendant for such departure.

	l.	s.	d.
Fee for the Warrant <i>inde</i> , —————	0	3	4
For the Certificate of the Exami- ners, to testifie that hee the Defen- dant is not yet examined, —————	0	1	0
For the Writ, —————	0	2	6

And vpon the said Attachment, the Plaintiffe may proceed to the Commission of Rebellion against the Defendant, if hee will in manner (as aforesaid.)

If the Interrogatories bee put in by the Plaintiffe ; The Defendant may bee examined therevpon.

	l.	s.	d.
Fee for the Examination, —————	0	2	4
For admittance to Attourney, ————	0	2	4

But if no Interrogatories bee put in by the Plaintiffe, within the time limited (as aforesaid:) Then after the time (which is foure dayes) expired, the Defendant may safely depart out of Towne,

Provided, that hee the Defendant doe first obtaine from the Examiners a Certificate, to testifie that the Plaintiffe hath not yet put in any Interrogatories against him.

Fee for the Certificate, —————	<i>vt supra.</i>
For his admittance to Attourney, ————	<i>vt supra.</i>

And if the Defendant doe *Demurre* to the Bill of the Plaintiffe : Then the Defendant shall not need to put in Sureties therevpon, but only

to moue the Court, that his said *Demurrer* may be referred to the Examination, and Consideration of some of his Maiesties Iustices of either Bench, or to some of his Maiesties Counsaile learned in the Law : and that they may certifie backe to the Court, whether the said *Demurrer* be sufficient or no.

For the Entry of the Order here- } l. s. d.
 vpon, _____ } 0—3—0

And if the Iustices, or his Maiesties Counsell in the Law, to whom the said *Demurrer* is so referred, and committed, doe vpon Examination and Consideration therof, certifie to the Court, that they finde the said *Demurrer* to be insufficient : Then therevpon the Defendant is to pay to the Plaintiffe for his extraordinarie costs in this behalfe, forty shillings.

And the Plaintiffe in this case may likewise haue a *Sub pœna* against the Defendant to make a better Answer.

Fee for the Entry, and Copy of } l. s. d.
 the said Certificate, _____ } 0—2—0

The Warrant for the Writ to cal }
 the Defendant to make a better } 0—2—0
 answer, _____ }

The Writ and Seale, _____ 0—2—6

And if the Defendant doe not pay to the Plaintiffe the said summe of forty shillings so awarded for the Insufficiencie of the *Demurrer*; and that vpon the returne of the *Sub pœna* to

make a better answer; Then the Plaintiffe may haue a *Sub pœna ad soluendum* in that behalfe against him.

l. s. d.

Fee for the Warrant *inde*, ———— 0 — 2 — 0

For the Writ and Seale, ———— 0 — 2 — 6

And if the Defendant doe not pay the Plaintiffe vpon that *Sub pœna* being serued vpon him, And Oath thereof be made: Then the Plaintiffe may haue an Attachment against the Defendant for his said Costs so awarded, and proceed therevpon: ———— *vt supra.*

The Fees, *inde* ———— *vt supra.*

If *Affidavit* be made that the Defendant is so aged or impotent, that hee cannot come to answer or *Demurre* heere in person, His *Demurrer* will be accepted, as though hee were personally present heere at the doing thereof.

And then if the Defendant doe *Demurre* to one part of the Bill, and Answer to another part of it; The Defendant is to answer to Interrogatories, touching that part of the Bill, vnto which he so answered.

And if vpon examination had of the Defendants *Demurrer*: The Iustices, or such of his Majesties Counsaile learned in the Law, vnto whom the same was referred, doe certifie to the Court that they finde the *Demurrer* to bee sufficient; Then, and therevpon the Plaintiffes Bill is to be ouerthrowne, And the Defendant shall
be

be dismissed out of the Court, with his Costs in this behalfe sustained, to bee allowed vnto him.

Fee for the Entry, and Copie of \mathcal{R} l. s. d.
the said Certificate, ————— } 0 — 1 — 0

For the dismissal, ————— } 0 — 2 — 0

To his Attourney for his Bill }
of Costs, ————— } 0 — 6 — 8

To the Clerkes for Entry, ——— } 0 — 2 — 6

For the Warrant to lead his }
Writ *ad soluendum*, ————— } 0 — 2 — 0

For the Writ and Seale, ————— } 0 — 2 — 6

Where note, that if neither the Plaintiffe, nor the Defendant doth moue the Court to haue the *Demurrer* to bee referred in manner as aforesaid; there the cause proceedeth no farther, but dyeth.

And note, that oftentimes the sufficiencie of answere made to Interrogatories, is referred by the Court to Committees: But howsoeuer the Certificate is made therevpon, for, or against either party, no dismissal doth follow therevpon; Onely some small costs is awarded to the party, on whose side the Certificate is made: for the Recouerie of which costs, they may take such course and order, as is to be taken in case of a *Demurrer*.

Fees *unde*, ————— *vt supra*.

When the Defendant hath put in a sufficient Answere to the Plaintiffes Bill, and the Defendant is likewise examined vpon Interrogatories
(as

(as aforesaid:) Then the Plaintiffe may Reply, and take forth a Writ *ad reiuendum* against the Defendant, which must be serued vpon him for that purpose.

Fee for the Copy of the Answer }
and Examination *super Interr.* — } 0 - *vt supra.*

l. s. d.

The Warrant to lead the Writ, — 0 — 2 — 0

The Writ and Seale, ————— 0 — 2 — 6

Where note that the Plaintiffe is not compellable to Reply, before such time as all the Defendants haue made answer.

And if the Defendant answereth generally, *Not guilty*: Then there shall need no Replication to be made at all, because they be at issue vpon the same Plea; And then the Plaintiffe may take out his Writ *ad iungendum in Commissione*, to make the Defendant ioine with him in Commission.

Fees *inde*, ————— *vt supra.*

And if the Plaintiffe doe Reply, before such time as the Defendant is examined vpon Interrogatories; hee loseth the benefit of examining the Defendant in that kinde:

And if the Plaintiff do not reply, the next day after the dayes expired, which are giuen to him in warning, to make his Replication: The Defendant may in such case, and vpon such default of the Plaintiffe, moue to haue the cause dismissed, for want of effectuall prosecution.

Fee

l. s. d.

Fee for the Entry of the Order, — 0 — 3 — 0

For the Rest, ——— *vt supra*, for *Demurrer*.

When the Plaintiffe hath serued the Writ *ad Reuungendum* vpon the Defendant, And *Affedavit* bee thereof made, Hee may take forth his Commission to examine Witnesses.

This Commission is to be directed vnto such Commissioners, as the Plaintiffe and Defendant shall agree vpon.

l. s. d.

Fee for the *Affedavit* made for }
the seruing of the Writ *ad Reuun-* } 0 — 2 — 4
gendum, ————— }

The Warrant, ————— 0 — 3 — 10

The Writ Com. ————— 0 — 7 — 2

If the Defendant doe refuse to ioyne with the Plaintiffe in the Cómmission: Then the Plaintiffe may sue out the Commission himselfe alone on his party, and direct it vnto foure Iustices of the Peace, and execute it at his pleasure:

Otherwise the Plaintiffe may (if he will) examine his Witnesses here in Court.

When the Writ *ad Reuungendum* is serued vpon the Defendant, he need not to enter any appearance therevpon, but onely to Reioyne to the Replication.

Fee *inde* ————— *vt supra*.

And if the Defendant doe ioyne with the Plaintiffe in Commission: Then the Defendant

is to pay the one halfe of the Fee of the Commission :

Fee *inde*, ————— 0 — *vt supra* — 0

If the Plaintiffe doe delay the suing forth of any Commission to examine Witnesfes, Then the Defendant; vpon Oath made that hee was serued to reioyne, may himselfe alone take forth a Commission to examine on his party :

Fee *inde*, ————— *vt supra*.

Or otherwise, the Defendant for such delay of the Plaintiffe, may the next Terme following moue to haue the Cause dismissed.

When the Commission is executed and returned, The Plaintiffe or Defendant may assigne and giue to each other a day to shew cause why Publication should not bee granted in this matter, &c.

Fee for Returne of the Com- } l. — s. — d.
mission, ————— } 0 — 0 — 4

The Rule for Publication, ——— 0 — 1 — 0

After Assignement to Publication & the daies so assigned be expired; if nothing be said to the contrarie, Then Publication may be entred.

l. s. d.

For the entry of Publication, 0 — 1 — 0

Note, that nothing stayeth Publication, but it must be granted vpon.

Order,

The Starre-Chamber. 187

Order,
Affedavit,
Certificate,
or
Consent.

After Publication is so had and procured (as
aforesaid) the Cause standeth then at the high-
est: For vntill Hearing, nothing more is to bee
done here.

l. s. d.
For the entring of the Cause }
then into the common Booke of } o — i — o
Hearing, _____ }

Lastly, you shall obserue that nothing altereth
the aforesaid grounded rules of this most Ho-
norable Court, but only

Order,
Affedavit,
Certificate,
or
Consent.

Which procured vpon some extraordinarie
accidents, doe sometimes change the prescribed
custome of proceeding and rule of the Court.

*The forme of proceeding Ore
tenus in the Starre-Cham-
ber followeth.*

IF the Delinquent hath done or spoken any thing worthy the Hearing and Censure of this honourable Court, And be questioned for the same, And thereupon doth confesse the fact or words, and subscribeth his hand to the same Confession made in writing before the Lord *Chancellour* or Lord *Keeper*, or any the Lords, Iudges, or the Kings Counsaile; And doth, when he is called to this Barre to answer it, likewise confesse the same to be true, and acknowledgeth his hand subscribed to the confession made (as aforesaid:) Then, and in such case the Court vseth to proceede to Sentence and Censure in the matter.

It hath not bin seene formerly, That any but the Lord *Chancellor* or Lord *Keeper*, the Iudges, or the Kings Counsaile haue taken any such Examinations or Confessions. so subscribed vnder the Delinquents hand (as aforesaid.)

Neuerthelesse, if any other who hath authority in this behalfe, shall take any such Examination & subscription, And the partie so examined and subscribing, shall at the Barre confesse the
matter,

The Starre-Chamber. 189

matter, and acknowledge the hand; The Court may proceede to Sentence and Censure therevpon:

For the life of his Examination is the Confession and acknowledgment thereof at the Barre, when the Court doth examine him (as the custome is) whether that which is confessed in writing be true, or not.

And if the Lord *Chancellor* or Lord *Keeper*, the Iudges, the Kings Counsaile, or any other shal take any such Examination and Confession; Yet, if the partie at the Barre shall either deny his hand thereunto subscribed, or the matter therein contained, to be true; Then the Court doth not vse to proceede to sentence or censure him.

So consequently the strength of the Examination seemeth not to stand in the partie who taketh it, if he be of authoritie, but in the parties Re-examining the same at the Barre, and the Recognizatiō thereof.

And so I conclude the practice of the Court
of Starre-Chamber.



THE EXCHE- QUER.

THE *Exchequer* hath three severall places of proceeding, according to the three differing maner of busines belonging vnto it on the pleading side: (*viz.*)

The *Chequer Barre*,

The *Chequer Chamber*,

The Court of of *Pleas*.

For the *Exchequer Chamber*, It is the English Court or place where the Proceedings are held by English Bill and Answer; And the proceeding thereof is very much like to that of the *Chancerie*, (as I said before) and therefore I meane not to insist any further vpon it.

For the Court of *Pleas*, It is the very Imitatiue of the Courts of Common Law in the Hall, and therefore I would bee loth to boyle the same meate twice ouer to your Trencher:

but

but referue my selfe for the *Chequer Barre*-especially, and the Receipt side.

The Proesse and Proceedings of the *Chequer Barre* are distributed betweene the two *Remembrancers* of this Court; (*viz.*) the Kings *Remembrancer* and the Lord *Treasurers Remembrancer*:

And what doth properly appertaine to the one, and what to the other, I haue at large set downe in my *Direction for Search of Record*, according to the finall Doome and Order of Sir *Richard Lyster* Lord chiefe Baron in the time of King *Henry* the eighth:

And by the view of the particular matters and businesse therein appropriated so respectiue, you may the better iudge of the proceeding to be held vpon them; the rather, for that euen here at the Barre side, they doe in most things follow the practice of the Common Law also.

Therefore I shall bend my selfe to set foorth the practice of those things which are not presented in the other Common Lawe Courts at all, heeing matters onely proper to this, &c. with that small difference which is betweene this Court and those of the Common Lawe belowe Staires, in point of Appearance at the beginning of a Suite, &c.

The

The order of Appearance in the Exchequer.

IN the *Exchequer* the appearance may be made by Attourney, so that there be sureties laid in to answer the matter.

This Bayle must be alwayes taken before a Baron in the Court, and not in his Chamber, as is vsed in other Courts :

The Proesse is a *Sub pœna*; And if the Defendant doe appeare therevpon by his Attourney, his Sureties must be bound by Recognizance (as aforesaid) with Condition that hee shall render, &c. If the Defendant be condemned.

If the Plaintiffe be pleased, The hand of the Defendant may be sufficient in this case, whether he appeareth personally or no:

And except the matter be the greater, one Surety may suffice, &c.

The Charge of Appearance vpon a Sub pœna in the Exchequer.

	l.	s.	d.
I nprimis the Appearance, ————○—○—8			
The Recognizance, ————○—○—8			
The Attourneys Fee, ————○—3—4			
The			

The Exchequer.

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	l.	s.	d.
The Copie of the Information, } at eight pence the sheete, _____ } <i>le sheete.</i>	0	0	8
For entring of the Bayle, if it be } in generall issue, _____ }	0	5	0
If in a speciall issue, then for eue- } ry halfe Roll, _____ }	0	16	4
To a Counsaillour for draw- } ing of the Plea in Barre at the } <i>If it will</i> least, _____ } <i>satisfie.</i>	0	6	8
The <i>Sub pana</i> it selfe and Seale } wherevpon the appearance is, _____ }	0	2	7

The charge of an *fnrolement* in the Exchequer.

	l.	s.	d.
I nprimis, to the Baron before } whom the acknowledgement } is made, _____ }	0	6	8
To the Master of the Office for } his hand, _____ }	0	6	4
For euey Roll, _____	0	3	4
To the Attourney, _____	0	3	4
<i>Summe Total. inde.</i> _____	0	19	8

C c

The

The charge of the Sheriffes account in the Exchequer.

I <i>N</i> primis, for the <i>Tales</i> vpon	1	s.	d.
payment of proffers, ————	0	— 2	— 8
For the Entry of the same	}	0	— 1 — 4
<i>Tales</i> , ————			
For the <i>Diem extremum clausit</i>	}	0	— 13 — 4
after the death of the Sheriffe,			
whereby Execution is to bee returned, <i>Sur. accompt.</i>			
For the Warrant of Attourney	0	— 1	— 0
The Entry thereof, ————	0	— 0	— 8
The <i>Vshers</i> Fees, & poore mans	}	0	— 13 — 4
Box, ————			
The Controller of the Pipe, ————	0	— 16	— 8
To him more in regard, ————	0	— 3	— 4
To his Clerke for Summons	}	0	— 5 — 0
and in regard, ————			
To the Clerke of the Pipe in	}	1	— 0 — 0
part of his Fee, ————			
To the Lord Treasurers Re-	}	0	— 13 — 4
membrancer, ————			
To the Forreigne Opposer for	}	1	— 6 — 8
changing of the greene Wax, and			
making of the scrowle thereof, —			
To him for allowance of the	}	0	— 18 — 0
wages for the Iustices of the Peace,			

To

To the Clerke of the Estreats } for portage of bookes, _____	} <i>As you can agree.</i>
To the Vnder-Clerke of the Pipe } for the like, _____	
The President for the forreigne } Account, _____	} <i>Quer.</i>
Fee in regard of the Iustices of } Assize their Dyet, _____	
To the Attourney for the Entry } thereof, and the other Petitions, }	} 1. s. d. 10—0—0 2—0—0
To the said Attourney for his or- } dinary Fee for the whole yeere, <i>ad</i> }	
<i>recipiendum mandat, &c.</i> _____ }	} 1—6—8
To him in regard for euery } Terme during the Account, _____	
To his Clerke in regard, _____	0—10—0
The Copie of the Sheriffes Sei- } sures, according to the number }	} <i>According to the number of them.</i>
of them. _____	
Le: Seifure old, _____	0—1—0
Le: Seifure new, _____	0—2—0
To the Clerke in regard of the } same, _____	} 0—3—4
To the Remembrancers Office } for euery thereof, and for ioyning }	
the Tales of proffers, _____ }	} 0—3—4
On the Lord Treasurers Remem- } brancers side for the like, _____	
	} <i>Similiter.</i>

	l.	s.	d.
For allowance of the same <i>Tales</i> , of payments of money in the Re- ceipt of the Exchequer, _____	0	1	4
For the loyning of the same, _____	0	0	8
For allowance of the same, _____	0	1	0
For euery day that is giuen to the Sheriffe for respect of his Ac- counts, _____	0	6	8
For Entry thereof, _____	0	2	0
To the Vsher for Proclamation when the Sheriffe is cast out of the Court, _____	0	2	6
For the <i>Quietus est</i> , the making and allowing of the same, _____	1	0	0
For the Baron his Fee for the taking and allowing of the for- reine accounts, _____	0	6	8
To the same Baron for exami- ning of the Sheriffes Schedule, _____	0	6	8

*The ordinarie charge for passing
of an Account.*

I nprimis, for deliuerie and re- ceipt of three Certificates, _____	0	1	0
For deliuerie of the Kings part of the bookes of Extent to the Auditor, _____	0	0	4
To the Auditors man for a bagge, _____	0	0	6

For

The Exchequer. 197

	l.	s.	d.
For a Warrant of Attourney, —	0	0	8
To the Teller for Receiuing of the money, and for making a Bill thereof, —————	0	0	4
To the Auditors man for allow- ing of the Certificates, ———	0	1	6
To the Auditors man for en- grossing of the Accounts, ———	0	4	0
To the Barons man for Recci- uing & allowing of the Warrants of Attourney, —————	0	2	0
For Entring of the Account on the Kings Remembrancers side, —————	0	1	0
For the like entry with Master <i>Smith</i> , —————	0	1	0
For ioyning of their two <i>Tales</i> , —	0	0	8
For entring of the <i>Quietus est</i> , —	0	2	0
For the <i>Quietus est</i> , —————	0	3	4
The Attourneys Fee, —————	0	3	4
<i>Summe Total. is about,</i> —	0	18	0

And thus much for the *Exchequer* :

The Sheriffes Fees doe next offer them-
selues in manner following.



FEES
BELONGING TO
SHERIFFES.

	l.	s.	d.
I nprimis, for the Returne of euery } <i>Cepi Corpus</i> , _____ } 0-0-4			
For the Returne of a <i>Nihil</i> , or a } <i>Non est inuentus</i> , _____ } 0-0-4			
For returne of a Proclamation, _____	0	1	0
For the returne of a <i>Venire facias</i> , _____	0	1	0
For the returne of a <i>Habeas Corpor.</i> } or <i>Distringas</i> , _____ } 0-2-4			
For euery name returned vtlawed, _____	0	0	4
For making of a Warrant vpon } a Writ, if it be directed to the ordi- } 0-0-4 nary Bayliffe, then for euery name, }			
If to a speciall Bayliffe, or Bay- } liffes, Then for euery name _____ } 0-2-0			
For the Arrest of euery Defen- } dant, _____ } 0-1-0			
	Payable by the Plain- tiffe.		

For

For making the Bond wherein the Defendant is bound with two Sureties for his appearance at the returne of the Writ, and in the Court named in the Writ, _____ } 1. s. d.
0 - 0 - 4

For a Copy of the Warrant vpon the Writ, _____ } 0 - 0 - 4

For a *Repleuin* or *Repleuit* in the Shire, _____ } 1. s. d.
0 - 2 - 0

For the returne of a *Recordare*, ———— } 0 - 0 - 4

For the Returne of an *Accedas ad Curiam*, _____ } 1. s. d.
0 - 2 - 0

For the returne of a *Distringas nuper vic.* _____ } 1. s. d.
0 - 2 - 0

For the allowance of a *Superse-deas*, if it bee after the returne of the Exigent, _____ } 0 - 1 - 0

For the Executing of a Writ to enquire of Waste :

Also to enquire of Damgages :

Also to execute a Statute :

Or *habere facias seisinam* :

A Writ of Right :

De partitione faciend.

For remouing the Ouer-charge of Common of Pasture.

Enquire vpon an *Elegit.*

Writ of forcible Entry, or holding with force, wherevpon the partie amoued is to bee restored to his possession.

The Sher-
riffe hath
for these, as
you can a-
gree with
him.

Exc-



F E E S

**BELONGING
TO THE CLERKE**
of the **PEACE** and his Office,
now follow.

First, it is to be vnderstood, that heretofore the *Clerke* of the *Peace*, being onely Clerke vnder and vnto the *Custos Rotulorum* of the County, was wont to haue wages yeerely of the said *Custos* for his seruice.

The Clerke of the *Peace* is to make out all the Writs of warning, of all such persons as are to giue attendance at the Sessions of the *Peace*, to be kept at such place, as the Iustices doe appoint and agree vpon.

And at the place and time appointed for the Sessions, The Clerke doth first reade the Commission of the Iustices, And then the Sheriffe of the Shire doth returne foure and twenty of euery hundred in the County, of which there

202 *Clerke of the Peace:*

is one Grand Jury for the body of the Shire drawne forth; and this is called the great Enquest.

And when the great Enquest is sworne, One of the Iustices giueth the charge vnto them, wherevpon they shall enquire.

After the charge giuen and ended, They doe depart from the Barre, to some roome in some house neere thereabouts, where they may bee conueniently together.

And to them then and there are brought all Bills of Felony, Trespasse, Ryots, or other misdemeanours & offences giuen them in charge to enquire of.

And if the great Enquest finde any of the said Bills or presentments to bee true, And the parties themselues who are therein found faulty, or guilty, be absent, so that they cannot be quitted, or punished for the present: Then, & in such case, The Clerke of the Peace is to make forth against them three *Capias's*: and an Exigent to come in, to trauerse the presentment, or to subiect themselues to the Censure and Doome of the Court, &c.

When the great Enquest finde the Bill true; they write on the Back-side thereof, *Villa vera*; But in case they can not finde it true for want of sufficient Euidence; Then they write on the backside thereof, *Ignoramus*.

If it bee found, then the Clerke is to make forth

forth Proceſſe (as aforeſaid :) but if the Iury finde it not, then farther proceeding is not to be had therevpon.

If the partie ſo indicted be preſent, if it bee in caſe of Felony, &c. hee may bee forthwith arraigned before the ſaid Juſtices, who are to proceed vpon him farther, as the Law in ſuch caſe prouideth.

If he be not preſent, nor Attached, but at libertie till hee be vtlawed; Then after ſuch *Vtlawary*, euery Accessarie to the felony, may bee arraigned and tryed; but not before.

For other offences of inferiour nature, the partie indicted is to come in to make his Fine at the diſcretion of the Juſtices, or two of them at the leaſt, whereof one muſt bee of the *Quorum*, vnleſſe that before that time the partie can get the Indictment to be remoued by *Certiorare* into the *Kings Bench*.

And if it bee ſo Remoued thither, Then the party muſt either there trauerſe it *cum effectu*, or elſe compound with the Juſtices of the ſaid Court for the ſame.

l. s. d.

The Fees which euery perſon }
 ſo indicted is to pay at the Seſ- } 0 — 2 — 6
 ſions, _____ }

Whereof to the Cryer and Mar- }
 ſhall, _____ } 0 — 0 — 6

And to the Clerke of the Peace, — 0 — 2 — 0

And in case where a forcibly Entry, or forcible holding is found before the Iustices, or some of them, The *Clerke* of the Peace is to make a Writ of Restitution, directed to the Sheriffe, to put the partie amoued, into the possession: For which, his Fee is. _____ } l. s. d.
 0—6—8

Item, for euery Warrant of the Peace, _____ } l. s. d.
 0—2—0

Item, for euery *Superfedeas*, _____ } 0—2—0

Item, for euery Warrant of good Abearing, _____ } 0—2—0

Item, of euery person indicted of Felony, and thereof acquitted, — } 0—2—0

Item, for euery person acquitted vpon other Bills, _____ } 0—2—0

Item, vpon Remouing of euery Indictment by *Certiorare* into the *Kings Bench*: For the allowance of the said Writ, _____ } 0—6—8

Item, for euery Writ at the suite of the partie vpon a Trauerse tendered, _____ } 0—2—0

Some other few Fees there bee vpon matter within the compasse of the Commission of the Peace, which time may enable me to adde: But for the other Fees which the *Clerke* of the Peace.

Peace doth take in ciuill matters; as for Licences of Malsters, Hyglers, &c. because hee is onely *Clericus Clerici Rotulorum pacis*, I vnderstand not how he claimes those Fees in ciuill causes.

And for the Licence and Bond of Victualers giuen vpon Licence,

The Fees are vncertaine: For in some Countiees the whole charges stands the Victualler in 6. s. in some 7. s. and in some 8. s. *Vijs & modis per annum* yeerely. And the Victualler Licensed *de nouo*, in some places payes more then the older Victualler.

Fee vncertaine.

Note withall, neuerthelesse, that the Victualler is the best Candle-rent Tenant that the Clerke of the Peace hath: And therefore I dare trust them together, for I know not where I can better leaue him.

The Clerke of the Assize holds the next place for taking of Fees, (*viz.*)



CLERKE OF THE ASSISES FEES,

(VIZ.)

	l.	s.	d.
I N primis, pro Quærela, _____	0	2	0
Item, pro pl. in Barr. seu in Assiss. _____	0	2	0
Item, pro capiend. Assiss. super } exit. ex utraq; parte, _____	0	2	0
Item, pro intratione inde in Assiss. _____	0	2	0
Item, pro intratione Non prof. pro } Querente, _____	0	2	0
Item, pro quolibet bre. secundum } secundum longitudinem eiusdem, _____			longitud.
Item, pro quolibet Adior. in com. } As ye can Barre, prout concordare potestis : } agree.			
Item, pro quolibet Adior. ex utraq; } parte, si dies dat. sit utriq; parti. }	0	2	0
Item, pro quolibet Warrant. Attor- } nat. _____	0	0	8
Item, Quer. in qualibet Assiss. } de Seisin capt. tertia pars ex tertia } Ratabiliter. parte damnorum, _____			

Feod.

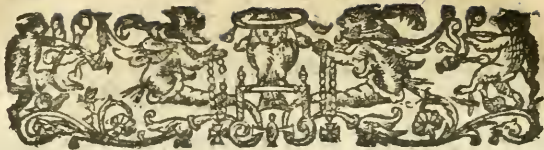
Clerke of Assises. 207

<i>Feod. de Record de Nisi prius,</i> —————	0	0	6
<i>Item, pro deliberatione eiusdem in</i>	}	0	5
<i>Curia,</i> —————			
<i>Item de Quer. si Def. cognouerit</i>	}	0	2
<i>actionem,</i> —————			
<i>Item, de Def. si Quer. non vult</i>	}	0	2
<i>prosequi,</i> —————			
<i>Item, pro qualibet priuac Verdict,</i> —	0	8	8
<i>Vnde Iustic.</i> —————	0	6	8
<i>Item, de Def. pro indors. cuius-</i>	}	0	4
<i>libet Record & Informac. ubi plit.</i>			
<i>Item, pro quolibet Warrant Attor.</i>	0	0	8

And thus farre my present Collations extend for the present, touching our Clerks of the Assizes their Fees.

The Charge of prouing a Will followeth.

THE



THE CHARGE
OF PROOVING OF
a VVill in the *Arches*, the
Inuentorie being forty pounds,
and not above.

I <i>N primis</i> , the Proctors Fee and	{	l.	s.	d.
<i>Prox.</i> for prouing the Will, —	}	0	5	8
<i>Item</i> , the Seal and <i>Probate</i> of	{	0	1	8
the Will. —————	}			
<i>Item</i> , for Registring of the same, —		0	1	6
<i>Item</i> , for ingrossing of the Will, {		0	1	0
if it be but short : —————	}			
<i>Item</i> , for ingrossing of the Inuen-	{	0	3	4
torie, and exhibiting of the same, —	}			
<i>Item</i> , for the Registers hand to it, —		0	1	0
<i>Summe total.</i> —————		0	14	2

Generally for Probate of Wills, and the charge thereof according to the rate of the *Inuentorie*, see the Statute in that case, vnder that Title especially provided :

If the Officers whom it concernes, can bee perswaded that it was provided for them : *hinc oritur questio.*

C O V R T

iesties Attourney of the Court of Wards with the order, And he will therevpon make you a Warrant for the drawing vp of your said Commission.

This Warrant you must carry to the proper Clerk, who is to draw your Commission, which he vpon sight of the Warrant, will accordingly doe.

Fee to the said Clerke for the } l. s. d.
said Commission, ————— } 0 — 16 — 0

Note, that when you procure your Order from the Master, you must haue a speciall care to see that his Secretary doe Register your name for the said Grant, in the Booke of Remembrances of this nature, lest it should be forgotten, And withall it will not bee amisse, that you vse means to make the said Secretary mindfull of you in your absence.

When the said Commission is executed, and the Office found therevpon, The same must be deliuered into the Court of Wards, And hee that deliuereth it, must bee sworne vpon the deliuerie, that hee receiued it from the Commissioners, and that in such manner as he doth deliuer it, being vnaltered in any point.

l. s. d.
Fee for the said Oath, ————— 0 — 0 — 4

Then it is to be deliuered into the Office at the *Temple*, from whence it is to be sent ouer to the *Petty-bagge*, where the Clerke will make you

you out a Copie of the same Commission, and Inquisition found vpon it, which you must carry backe to the Office of the Court of Wards, And then the chiefe Officer there, or the Auditor of the Court will make your Schedule by, and out of the same Office or Inquisition so found.

To this Schedule you are to get the hand of the Master of the Court; And that being obtained, you are to bring the said Schedule so signed to the Officer, who is to make your Indentures of bargaine therevpon, which he, vpon sight thereof, will performe accordingly.

Then you are to carry the said Indentures to the Master of the Court, who will set his hand to one part of the same, And you that haue the Grant of the said Lunaticke, must set your hand and seale to the other part. And the part which you are to haue, must bee herevpon sealed with the seale of the Court.

But before you haue your part, you must seale to the Kings part, And must also finde two Sureties to be bound with you, That you shall truely account once in euery yeere to the Auditor of the Court for the profits of the liuing of the said Lunaticke, And to answer the stocke and state of the said Lunaticke, if hee shall chance to dye, or recouer his former health.

And if the parties who should be bound with you, be not in towne: Then you must haue a

Commission directed to foure such in the Countrey as you will nominate, to see and certifie the signing and sealing of your said Sureties to the said Bond.

This Commission and Bond must bee returned into the Court of Wards, who deliuer it ouer to the proper Clerke or Officer; wherevpon you shall haue your part vnder the hand of the Master of the Court, and the Seale of the said Court.

Then must you Inroll your part of the said Indenture, so signed and sealed in the Auditors Office: And so you haue made an end, &c.

And

You may conceiue how seuerall Fees doe arise vpon euery seuerall passage aforesaid.

Instructions to passe a Ward.

I*nprimis*, you must make meanes for the obtaining of a Ward, as in case of a Lunaticke aforesaid.

When you haue got the promise and order for it from the Master of the Court of Wards; you are to goe to the Kings Attourney of the said Court, and vse means vnto him for a Commission to enquire and finde the Ward, and a Tenure for the King; wherevpon you may haue a Warrant from him to leade such a Commission.

When

When you haue that Warrant, and therevpon your Commission; you must get that Commission, to be by the proper Clerke to whom it doth appertaine, directed to the Feodary of the County, and two such others as you shall nominate and appoint.

When this Commission is sped and executed, and the Tenure found for the King, which doth consequently proue the Ward, you are to returne this Commission into the *Petty-bagge*, and there to take a Copie of it, which you are to deliuer to the Clerke to whom it belongs in the Office of the Court of Wards; and herevpon he will make you forth vpon sight thereof a Schedule of the value of the Land.

Then you must carry that Schedule to the Secretarie of the Master of the Court, to the end that he may procure his Masters hand to be set vnto the same, And the Office for it, with the Wards exhibition, and the names of the partie, or parties, which are to haue the Ward: All which must be likewise set downe.

And when you haue the said Schedule so signed, Therevpon the Indentures of the grant are to be drawne vp, To the one part whereof, he or they that haue the Ward, are to Seale and signe; and to the other, the Master of the Court doth vse to subscribe his hand, and then the Seale of the Court is affixed therevnto.

Now if the parties who haue the graunt,

have not also their Sureties who are to undertake for them in this behalfe, in towne, so that they may heere enter into Bond with him, with condition of making a true account, and not doing of any waste, &c. Then there must bee a Commission procured to foure such persons as the Grantee or Grantees shall name, to attend and see the sealing and deliuerie made by him, or them, and his, or their Sureties, which the Commissioners must certifie and send vp vnder their hands and seales, attested with some Witnesses to the same.

And this must be deliuered into the Office of the said Court, to the proper Officer, with and vpon Oath to bee made, that it is deliuered in such manner as it was received from the Commissioners themselues vnaltered, &c.

Therevpon you shall haue a Bill for the receiuing of the exhibition thereof, And according to the Ancient forme of practice, That Bill was wont to bee then signed by the Kings hand, by the procurement of the proper Clerke of the Office.

And when the same is so signed, it does passe through the seuerall Seales, and at the last vnder the Great Seale of *England*, which course, I vnderstand not to be altered as yet: howsoeuer I may suspect, in regard of the many new Instructions which haue issued of late times, for the ordering of the affaires of this Court, that some

some small difference may *intercedere*, &c.

When your said Patent is so sealed, you are to deliuer the same and the Schedule of the value of the Land to the Auditor of the Court, who is to see that the same bee forthwith enrolled.

And therevpon the Auditor will giue order to the Feodarie of the Shire, to pay you the exhibition yeerely, &c.

*The charges of obtaining a Ward,
doe follow.*

Feod. sequuntur.

	l.	s.	d.
I n <i>primis</i> , for the Commission } to find the Tenure for the King }	0	15	0
<i>Item</i> , the Returne therefore to } the Clerke of the Petty-Bagge, — }	0	16	0
<i>Item</i> , the Copie of the said Of- } fice at eight pence the sheete, — }	<i>8. pence the sheete.</i>		
<i>Item</i> , to the Clerke of the Petty- } Bagge for examining of the same, }	0	2	0
<i>Item</i> , for making of the Bargaine, }	2	0	0
<i>Item</i> , to the said Officers Clerke } who maketh the same, ———— }	0	14	4
<i>Item</i> , for making of three Ob- } ligations, ————— }	0	16	0
	<i>Item,</i>		

Item, for the Commission for sealing of the Bargaine & Obligation in the Country, in case where the partie Grantee or his Sureties be not in towne to Seale, ——— } 1. s. d.
0 — 5 — 6

Item, to Master Attourneies man for the *Affidavit inde*, ——— } 0 — 0 — 4

For drawing of the *Schedule*, 0 — 6 — 8

For drawing of the Bill to be signed, and getting of the Kings hand vnto it. ——— } 0 — 6 — 8

To the Clerke for writing of the said Bill, ——— } 0 — 3 — 4

To him more for entring the same into the Booke, ——— } 0 — 2 — 0

To the Auditor for enrolling of the Patent and *Schedule* of the Land, ——— } 0 — 13 — 4
or rather, as you can agree.

To the Clerke for writing of the *Schedule*, ——— } 0 — 1 — 0

Besides the Copie of the Office, — *vt supra.*

Thus I conclude with this Court, giuing you farther to take in direction, that you examine these with the latest Bookes of Instructions giuen and published in Print for the ordering of this Court; whereby you shall the better discern the alterations, if any be.

FOR the Ideot, I had almost forgot him; Howso euer the matter is not great: For it is but a foolish busines when all is done.

You

You haue a faire example of a Lunaticke before your eyes, and therefore I shall only neede to giue you this monitorie instruction touching an Ideot: That you be assured that your selfe is somewhat the wiser man, before you goe about to beg him, or else neuer medle with him at all, lest you chance to play at *handy dandy*, which is the Gardian, or which is the foole: and the case alter è *Conuerso*, ad *Conuersum*. I pray let vs haue no *Platonisme* in the matter: And so much for the Ideot.

F f **THE**



THE
C O U R T
 OF
 PARLIAMENT.

I should say somewhat touching that great Court of Record, The Parliament. But the object is so farre remoued from my sight, that I cannot presume a certaine representation, with these weake *species* of eying those mysteries: Onely I make bold by way of Explanation, Introduction and Deduction of Sir *Thomas Smithes* Common-wealth, to deliuer this onely.

You shall vnderstand that all the Law of this Land which is } Acts of *Parliament*:
 Positiue, doth consist ei- } or,
 ther in _____ } *Proclamations*.

For the Acts of Parliament, publique or priuate:

uate: They bee all kept and remaine in the Custodie of the Clerkes of the Parliament; Howsoever (as I shewed you in the Search of Record) that they are, or at least should bee, in the Chappell of the Rolles likewise, and most of them are brought ouer thither by *Certiorare, vt ibidem, &c.*

These Acts (as you may reade) are made and established by the King, the Peeres and Commons of the Land, so stably and sanctedly, that they be taken for Law.

And that you may the better conceiue, what are the businesses, what the practice, and what consequently the Records of this Court, I will briefly recite the very words of Sir *Thomas Smith* to that point onely:

(*viz.*)

The Parliament Abrogateth old Lawes; Maketh new; Giueth order for things past, and for things hereafter to bee followed; Changeth right and possessions of priuate men; Legitimatieth Bastards; Establisheth formes of Religion; Altereth weights and measures; Giueth forme of Succession to the Crowne; Decideth of doubtfull Rights and Titles, whereof there is no Law already made; Appointeth Subsidies, Tailles, Taxes, and Impositions; Giueth most free Pardons and Absolutions; Restoreth in Bloud, and Name; Naturalizeth Aliens borne out of the Kings Allegiance; And to bee short,

All that euer the people of Rome might doe either in *Centuriatis comitijs.*, or *Tribunitijs.*, the same may bee done by the Parliament of England: And so much to the current of his streame.

It is euident, that this is the highest Court of this Realme, because the Authoritie of it is absolute, and bindeth all manner of persons, For that they are all parties and priuies therevnto, by way of Representation, &c.

Vnto this High Court doe come some, ————— } 1. By reason of their Tenure.
} 2. By vertue of Writ.
} 3. By vertue of Office.

There doe come by reason of Tenure these: (viz.)

- Archbishops,
- Bishops,
- Abbots,
- Priors,
- Dukes,
- Marquesses,
- Earles,
- Barons.

} Per tenur.

These vse to be summoned to appeare by the space of forty dayes before the Parliament.

They who doe come in by Writ, are these: (viz.)

- Knights of the Shires.
- Burgesses,
- Citizens of Cities.
- Barons of the 5. Ports.
- The Kings Councill.

} per bre.

There

There doe come } Two severall }
 hither also by Writ, } Proctors of the }
 directed to the se- } Clergie, for eue- }
 uerall Deanes, and } ry severall Dea- } *per bre.*
 Arch-deacons of } conrie, & Arch- }
 this Kingdome : } deaconrie :

These Proctors of the Clergie, be elected by the Clergie also.

And euery of these doe bring with him two Warrants, whereof he keepeth one by himselfe, and the other he enrolleth with the Clerke of the Parliament.

From hence, some haue gathered an Opinion, That sometimes heretofore the Conuocation house hath bene a member or part of the Parliament House.

But it appeares to bee otherwise in the Case of *Philpot*, who being questioned for Heresie, and certaine hereticall words by him spoken, did in his answere alledge, That the words so spoken, were deliuered by him in the Conuocation house, which he held to be a place of freedome and liberty of speech, as being a limme or member of the Parliament House, which assertion was ouer-ruled, And the Conuocation adiudged to be no member of the Parliament House. For though they come by Writ of Summons to the Parliament; Yet they haue no power ouer the Laitie, but onely authoritie to charge the Spirituallie; Or to make Institutions Prouinciall,

222 Court of Parliament:

ciall, as Holy-dayes, Fasting-dayes, and such like; And an Act of Parliament may passe without their consent, priuitie, or interposition in any manner of wise, &c.

Per Service.

- | | | | | |
|--|----|--|---|---------------------------|
| There doe come
hither, by reason
and vertue of Of-
fice, these; (<i>viz.</i>) | 1 | The chiefe Cryer
of <i>England.</i> | } | of the
Exche-
quer. |
| | 2 | The chiefe <i>Vsher.</i> | | |
| | 3 | The <i>Chancellor</i> | | |
| | 4 | The <i>Treasurer</i> | | |
| | 5 | The <i>Chamberlain</i> | | |
| | 6 | The <i>Barons</i> | | |
| | 7 | The Iustices of
either <i>Bench.</i> | | |
| | 8 | The Steward of
<i>England.</i> | | |
| | 9 | The Porter. | | |
| | 10 | Groomes. | | |
| | 11 | And all tyed by
service to be here
done, &c. | | |

The Stewards Office hath beene to place the Lords there.

The Porter hath vsed to see that there be but one doore, at which to goe in and out.

And euery one of the aboue-named Officers hath had his seuerall charge respectiuelly.

The

The Allowance of the Knight,
Burgesses, and Barons of the
Cinque-Ports follow: (viz.)

Every Knight of the Shire }
hath vsed to haue the Al- }
lowance of a Mark by the }
day, to be payed by the County }
whereof he is Knight; And this }
may be leuied by Distresse, &c. }

Knight:

— 13. s. — 4. d.
per diem.

Burgesses and Barons of the
Cinque-ports. }

These haue
not vsed to
haue *per diem*
about 10. s. *per*
piece for ex-
pences.

And for the leuying of this, They haue not
vsed to Distreyne, but haue tooke forth a Writ
vnder the Great Seale of *England*.

The Writ for the Barons of the Ports, is di-
rected to the Warden.

The Writ for the Burgesses, is directed to the
chiefe Magistrates of the Citie or Towne Cor-
porate for which they are Burgesses.

And the bodies for whom the fore-named
persons are employed, must pay the Fine for
their default, &c.

As

As, L. s. d.

For the first day wherein the Bur- }
 gessie shall be called, and appears } 0 — 100 — 0
 not, his Borough shall pay ——— }

If at the second day, the Knight }
 of the Shire doe not appeare, his } 100 — 0 — 0
 Shire shall pay ——— }

If at the third day a Baron of the }
 Cinque-ports shall not appeare, }
 those of the Cinque-ports shall } 66 — 6 — 8
 pay ——— }

If at the fourth day, the *Proctor* }
 of the Clergie doe make default, } 100 — 0 — 0
 his Bishop shall pay ——— }

And if all the Bishops, and all the Lords Spi-
 rituall and Temporall bee absent, hauing law-
 full Summons; Many are of opinion, That the
 King with his Commonaltie may proceed
 alone.

The Officers in Parliament } The Speaker.
 are: ————— } Two Clerkes.

Of which Clerkes, one is for the Vpper
 House, and the other for the Lower House.

The Speaker, he doth commend and preferre
 the Bills exhibited into the Parliament.

This Speaker is vsually appointed and nomi-
 nated by the King, though accepted by the
 House: And the Lord *Keeper* or Lord *Chancel-
 lour* vseth commonly, *pro forma*, on the first day
 of a Parliament to speake to the House, that
 they

they make choyce, and name one to bee their Speaker, &c.

The Clerkes are *Custodes Rotulorum Parliamenti*.

Touching their Fees : *Non altum sapimus*, &c.

And thus I conclude with the Parliament.

For the other part of Positiue Law, which does consist in Proclamations : I may onely say what they are, And what is the power of them, according to the common receiued opinion; and farther I intend not any speculation into them.

Proclamations are, where the King and his Councill thinke fit and expedient to publish any thing as a Law.

The effect and power of them, as also the paine of him that breaketh the same, you may reade in diuers Treaties vpon this subiect; In all which I finde this generall consent, That if the Ordinance or Proclamation so made, bee in supplement or Declaration of a Law that hath been formerly made and been good; It is to bee obeyed as a Law, and the breaker thereof is to vndergoe the paine of him that breaketh a Law and his Allegiance, &c. So did those *Promissiones Merton* attaine, & to this day doe hold the name and reputation of the Statute of *Merton*, &c.

Dixi.

G g THE



THE
OFFICE
 OF AN ESCHETER
 is set forth in these few lines
 following: (*viz.*)

Regia demandunt breuia Eschætoribus ista
 Cognoscenda; sibi Quæ sint Attinectio donet;
 Quantum de sese; Quantũ de alijsq; tenebat;
 Per qua seruitia tenuit; Quantumq; valabant
 Terræ: Quog; die fatis concessit, Et heres
 Quisnam proximior; Cuiusq; atatis ab ortu.

Note:

Where the value of the Lands to bee enquired
 of, do exceed the value of five pounds *per annum*,
 There he must enquire onely by vertue of Writ.

Where the Lands are vnder that value, he may
 enquire by vertue of office, and that Writ.

In euery case the Inquisition found, must bee
 returned into the *Petty-bagge*, &c.

THE



T H E
D V C H Y
 C O U R T.

THis is a great Court of Record, and it admits Pleas as well reall as personall, as also mixt pleadings, concerning the Lands of the Duchy.

The Iudges here are the *Chancellor* of the Duchy, assisted by his Maiesties Attourney of the Court, and two Iudges of the Common Law, who advise them for matter or question of Law.

The Rolles and Records of this Courts proceedings, are in the custodie of the Clerke of the same, to whose Office they doe appertaine.

But the Kings Evidence, Leases and Grants of the Duchy Land, as well the Possessions and



THE CONCLUSION.

I Conclude with this humble Request made to those who haue power of Reformation, in this crying reigning euill amongst Lawyers, touching the disappointment, and defeate of Chyents causes, for which they are retained and Feed, and yet often faile to giue attendance in the hoüre of Tribulation, or to bee neere vnto the Chyent in the day of Visitation (a foule fault in a friend, but worse in a Seruant.)

It may therefore please those in Authoritie to giue the abuse this proper redresse; (viz.) That if any one of them take his Fee to bee of counsaile, and to attend at such a certaine time and place, and shall notwithstanding fayle; The partie who so Feed him, upon complaint to the Iudge before whom he

was feed to be, may haue his Fee returned a-
 gaine, with such Dammage as he shall make ap-
 peare to the said Iudge that hee hath sustai-
 ned by the Absence of such Counsaile, And
 that in case it shall bee proued that hee ab-
 sented himselfe in fauour of the aduerse party,
 hee may bee fore-iudged his practice, and re-
 ceiuie some other fitting and exemplary pu-
 nishment in that behalfe.

FINIS.

Fœlix quem nulla Cycomia pinsit.

T. P.

A



A

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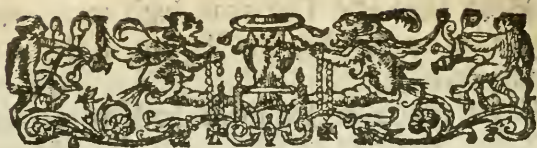
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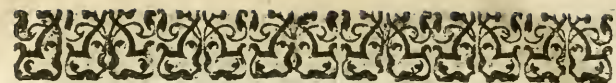
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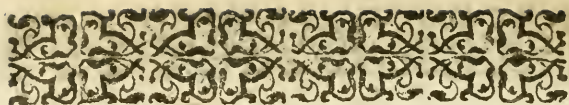


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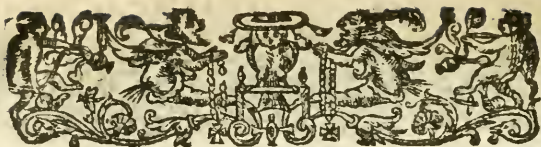
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THE

O A T H

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TOURNEY WAS AN-

ciently wont to take vpon his

Admission, being now disused,

And in stead thereof, the Oath of

Allegeance is only ministred;

howsoever both would

doe better.

YOU shall doe no Falshood; nor cause any
to be done in the Court: And if you
know of any to be done, you shall giue
knowledge thereof to my Lord chiefe Iustice or
some of his brethren, that it may be reformed:
you shall delay no man for Lucre or Malice;
Nor shall increase any Fees, but be content with
the

The Attourneies Oath:

the old Fees accustomed: You shall pleade no Forraigne *Plea*, Nor sue any Forraigne Suite vnlawfully to the hurt of any man; But you shall sue such onely, as shall stand with the order of Lawe and a good Conscience: You shall seale all such Proces as you shall sue out of this Court with the Seale thereof onely, and see the Kings Maiestie, and my Lord chiefe Iustice discharged for the same: You shall not wittingly sue, or procure to be sued any false Suite, or giue aide or consent to the same, on paine to be expulsed the Court for euer: And further, you shall beare your selfe honestly and vprightly in the Office of an Attourney of the Court, according to your best Learning and Dicretion, and as good Conscience bindeth you. So help you God, &c.

Now

I bring the Returnes themselves home in the Rere of my Booke, as being the only Leaders of Attourneies proceedings, and the Practice being past before: they offer themselves in the last place, beeing most markable and ready to euery hand, as occasion may require.

THE

The foure Termes with their Returnes.

Hillary Terme beginneth *January 23.* and endeth *February 12.*

Returne Dayes, or Esfoyne Dayes.	Exception day.	Returna Breuium.	Appearance dayes.
Octabis Hill. Ian. 23.	Ian. 24.	Ian. 25.	Ian. 26.
Quind. Hill. Ian. 27.	Ian. 28.	Ian. 29.	Ian. 30.
Craft. Purif. Feb. 3.	Febr. 4.	Feb. 5.	Feb. 6.
Octab. Purif. Feb. 10.	Febr. 11.	Feb. 12.	Feb. 13.

Easter Terme begins *April 30.* and endeth *May 26.*

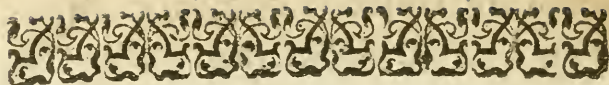
Quind. Pasch. Apr. 30.	May 1.	May 2.	May 3.
Tres Pasch. May 5.	May 6.	May 7.	May 8.
Mense. Pasch. May 12.	May 13.	May 14.	May 15.
Quinq; Pasch. May 19.	May 20.	May 21.	May 22.
Craft. Ascen. May 23.	May 24.	May 25.	May 26.

Trinitie Terme begins *Iune 13.* and endeth *Iuly 2.*

Craft. Trin. Iune 9.	Iune 10.	Iune 11.	Iune 12.
Octab. Trin. Iune 16.	Iune 17.	Iune 18.	Iune 19.
Quind. Trin. Iune 23.	Iune 24.	Iune 25.	Iune 26.
Tres Trin. Iune 30.	Iuly 1.	Iuly 2.	Iuly 3.

Michaemas Terme begins, *October 9.* and endeth *November 28.*

Octab. Mich. Octob. 6.	Octob. 7.	Octob. 8.	Octob. 9.
Quind. Mich. Octo. 13.	Octob. 14.	Octob. 15.	Octob. 16.
Tres Mich. Octob. 20.	Octob. 21.	Octob. 22.	Octob. 23.
Mense Mich. Octob. 27.	Octob. 28.	Octob. 29.	Octob. 30.
Craft. anim. Nouem. 3.	Nouemb. 4.	Nouemb. 5.	Nouemb. 6.
Craft. Marr. Nouem. 12.	Nouemb. 13.	Nouemb. 14.	Nouemb. 15.
Octab. Mart. Nou. 18.	Nouemb. 19.	Nouemb. 20.	Nouemb. 21.
Quind. Mart. Nou. 25.	Nouemb. 26.	Nouemb. 27.	Nouemb. 28.



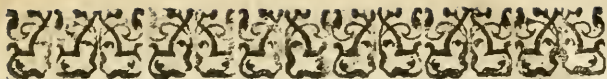
The Law-Dayes in the Courts of

Arches,
Audience,
Prerogative,
Consistory,
Delegates,
Admiralty.

In <i>Hillary</i> Terme,	}	<i>S. Hillary</i>	13	}	<i>January.</i>
		<i>S. Wolfston</i>	19		
		<i>Conuerſio S. Pauli</i>	25		
In <i>Eaſter</i> Terme:	}	<i>S. Scholaſtic.</i>	10	}	<i>February.</i>
		<i>S. Valentine</i>	14		
		<i>Quind. Paſch.</i>	28		
		<i>S. Gordian</i>	10		
In <i>Tritie</i> Terme:	}	<i>Aſcenſion Day.</i>	22	}	<i>May.</i>
		<i>Corpus Chriſti</i>	12		
		<i>S. Butolph</i>	17		
		<i>S. Iohn Baptiſt</i>	24		
		<i>S. Paul.</i>	30		
In <i>Michaelmas</i> Terme:	}	<i>S. Faith</i>	6	}	<i>October.</i>
		<i>S. Edward</i>	13		
		<i>All Soules.</i>	2		
		<i>S. Martin</i>	11		
		<i>S. Edmund.</i>	20		<i>November.</i>

And when, and where, their ſeueral Courts are ſeuerally and reſpectiuely kept, you ſhall reade in the common Almanacke at large.

F I N I S.

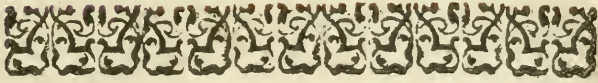


ERRATA.

(Answere ^d) pro (Entred)	fol. 9. about. line 19
(to) too much	fol. 12. lin. 24
(warrant) pro (warning)	fol. 16. lin 17. & 18
(Sutes) pro (Sitts)	fol. 33. lin. 17
The Title (Decree) twice set downe.	fol. 38
(serued) pro (sued)	fol. 56. lin. the last.
(be sufficient) pro (be not sufficient)	fol. 67. lin. 5
(then) too much	fol. eod. l. 14
The folio's of certaine leaues are mis-figured, inter	fol. 80. & 96
(referre) pro (reserue)	fol. 130. l 6
(inde) too much, in the <i>post diem</i> of the double Writ	
(The Scale thereof) too much	fol. 140. 17
Some Fees of the Clerke of the Treasury misplaced, about	fol. 150
(,) is mis-placed after <i>ministro</i>	fol. 164. l. 8.
(wherein) is left out	fol. 165
(To put in his Bayle) pro to (appear	fol. 169. l. ultima
(Clerici) pro (Custodis)	fol. 205. l. 3
(and that writ) pro (without Writ)	fol. 226. l. 17.
(dismission) pro (admission of new Bills)	in sbs Table.

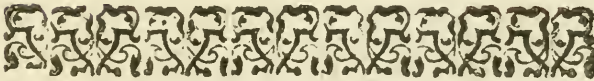
1847

Received of the
Honble the Secretary
to the Government
of India
the sum of
Rs. 1000
for the
purpose of
the
Government
of India
the sum of
Rs. 1000
for the
purpose of
the
Government
of India



— *Cum tonat ocyus Ilex*
Sulphure discutitur sacro quam inq; Demasq;

T. P.



P 2

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